



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

HOUSE BILL NO. 423

AS ENACTED

FRIDAY, MARCH 13, 2009

RECEIVED AND FILED
DATE March 24, 2009
11:26 AM

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SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

AN ACT relating to the budget of the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 48.010 is amended to read as follows:

2 As used in this chapter, unless the context requires otherwise:

3 (1) "Account" is a technical accounting term meaning a formal record in which related
4 transactions and events, (i.e., expenditures, receipts, encumbrances, and inter-
5 account charges or credits) which occur during a specific period of time, are
6 summarized and accumulated.

7 (2) "Activities" means those actions or services performed by a budget unit which
8 depict in a quantitative manner the fulfillment of lawful purposes.

9 (3) Appropriation-related terms are defined for procedures prescribed by this chapter as
10 follows:

11 (a) "Appropriation" means an authorization by the General Assembly to expend~~[-~~
12 ~~from public funds,]~~ a sum of money not in excess of the sum specified, for the
13 purposes specified in the authorization and under the procedure prescribed in
14 this chapter;

15 (b) "Appropriation provision" means a section of any enactment by the General
16 Assembly which is not provided for by this chapter and which authorizes the
17 expenditure off~~[-~~ public} funds other than by a general appropriation bill; ***and***

18 (c) "General appropriation bill" means an enactment by the General Assembly
19 that authorizes the expenditure off~~[-~~ public} funds in ~~a~~~~[-~~an executive, judicial, or
20 legislative} branch budget bill as provided for by this chapter.

21 (4) ***"Biennial highway construction plan" means the specifically identified***
22 ***individual transportation projects or portions thereof identified for funding***
23 ***during the upcoming biennium, which correspond to the first two (2) years of the***
24 ***six (6) year road plan.***

25 ***(5)*** "Budget" means the complete financial plan for each fiscal year contained in a

1 branch budget bill provided for by this chapter.

2 ~~(6)~~~~(5)~~ "Branch budget bill" or "branch budget" means an enactment by the General
3 Assembly which provides appropriations and establishes fiscal policies and
4 conditions for the biennial financial plan for the judicial branch, the legislative
5 branch, and the executive branch, which shall include a separate budget bill for
6 the Transportation Cabinet~~[of each branch of government].~~

7 ~~(7)~~~~(6)~~ "Branch budget recommendation" means the recommendations made to the
8 General Assembly by~~:[of]~~

9 (a) The Governor for the executive branch, including a separate
10 recommendation for the Transportation Cabinet;~~[and for fiscal matters~~
11 ~~related to the function of the government of the Commonwealth,]~~

12 (b) The Chief Justice for the judicial branch;~~;~~~~]~~ and

13 (c) The Legislative Research Commission for the legislative branch;~~,~~
14 ~~accompanied by an estimate of the receipts and expenditures for each branch~~
15 ~~and accompanying explanations provided for by this chapter for the next two~~
16 ~~(2) fiscal years].~~

17 ~~(8)~~~~(7)~~ "Budget unit request" means a detailed statement of the financial requirements
18 of a budget unit by principal budget class, and an estimate of its receipts and
19 expenditures for the next two (2) fiscal years, with the accompanying explanations
20 provided for by this chapter.

21 ~~(9)~~~~(8)~~ "Budget unit" or "appropriation unit" means any subdivision of any branch of
22 government, however designated in any branch budget bill.

23 ~~(10)~~~~(9)~~ "Capital outlay" means the exchange of values involved in acquiring lands,
24 buildings, equipment, or other permanent properties, or in their construction,
25 development, or permanent improvement.

26 (11) "Consensus forecasting group" means the group established by Section 4 of this
27 Act that is responsible for developing consensus revenue forecasts for the

1 **Commonwealth.**

2 ~~(12)~~~~(10)~~ "Disbursement" means cash actually paid out for any purpose.

3 ~~[(11) "Employee" means the lawful incumbent of a position.]~~

4 **(13) "Enacted estimates" means the revenue estimates used by the General Assembly**
 5 **as the basis for appropriations made in the enacted branch budget bills.**

6 ~~(14)~~~~(12)~~ "Expenditure" means cash actually paid out or an exchange of value for any
 7 purpose.

8 ~~(15)~~~~(13)~~ "Fund" means an independent fiscal and accounting entity with a self-
 9 balancing set of accounts recording cash or other resources or both together with all
 10 related liabilities, obligations, reserves, and equities which are segregated for the
 11 purpose of carrying on specific activities in accordance with legal restrictions or
 12 other limitations, to include:

13 (a) "General Fund." This fund shall consist of all moneys, not otherwise
 14 restricted, available for the general operations of state government.

15 (b) "Bond Debt Related Fund." This fund shall consist of all outstanding bonded
 16 debt liability and related funds of state government, including all revenue
 17 bonds issued by or approved by the State Property and Buildings Commission.
 18 Accounts necessary to assure integrity of trust indentures shall be maintained.
 19 Funds appropriated for debt service shall be allotted to these accounts and any
 20 excess of appropriation over net requirements for principal, interest, and
 21 reserves for any issue shall lapse to the surplus account of the general fund if
 22 general funds are a part of the appropriation for that budget unit.

23 (c) "Capital Construction Fund." This fund shall consist of moneys appropriated
 24 under the provision of KRS 45.750 to 45.800 for capital construction projects,
 25 except road construction projects, for all budget units of state government.

26 (d) "Federal Fund." This fund shall include all receipts from the federal
 27 government for any purpose.

- 1 (e) "Fiduciary Fund." This fund shall consist of moneys held by a budget unit in a
2 trustee capacity.
- 3 (f) "Restricted Fund." This fund shall consist of budget unit receipts restricted as
4 to purpose by statute.
- 5 (g) "Road Fund." This fund shall consist of money derived from excise or license
6 taxation relating to gasoline and other motor fuels, and moneys derived from
7 fees, excise or license taxation relating to registration, operation, or use of
8 vehicles for use on public highways. A separate record of each source of
9 receipt within this fund group shall be maintained.
- 10 ~~(16)~~~~(14)~~ "Principal budget class" includes the following:
- 11 (a) "Capital outlay" means the exchange of values involved in acquiring lands,
12 buildings, or other permanent properties, or in their construction,
13 development, or permanent improvement estimated to cost less than ~~six~~~~four~~
14 hundred thousand dollars ~~(\$600,000)~~~~(\$400,000)~~, and items of equipment or
15 other capital items estimated to cost less than ~~two~~~~one~~ hundred thousand
16 dollars ~~(\$200,000)~~~~(\$100,000)~~.
- 17 (b) "Debt service" means the amount of money required to pay the interest,
18 principal, and required contributions to accumulate moneys for future
19 retirement of lawfully incurred debt.
- 20 (c) "Grants, loans, or benefits" means expenditures for any grant, aid, loan, or
21 relief payment to individuals, organizations, or jurisdictions not otherwise
22 classified pursuant to this chapter.
- 23 (d) "Operating expenses" means expenditures directly attributable to the operation
24 of state government not otherwise classified pursuant to this chapter.
- 25 (e) "Personnel costs" means the salaries, wages, benefits (including but not
26 limited to, employer share of FICA, retirement contributions, insurance,
27 unemployment insurance, workers' compensation), and increments of all

1 officers and employees, and payment to persons awarded personal service
2 contracts.

3 ~~(17)~~~~(15)~~ "Receipts" includes the following:

4 (a) "Nonrevenue receipts" means values accruing that either decrease an asset or
5 create a liability.

6 (b) "Operating receipts" means cash received by a budget unit for services
7 rendered, or from the sale of materials, goods, or supplies created by the
8 budget unit or of items held for resale.

9 (c) "Revenue receipts" means values accruing as a result of taxation or revenues,
10 or both, and without resultant increase in liabilities or decrease in assets,
11 whether such values are represented by cash actually received or by amounts
12 due and payable, or partly by each.

13 (18) "Revenue shortfall" means either:

14 (a) An official revenue estimate for either the general fund or road fund that is
15 less than the enacted estimates; or

16 (b) Actual receipts at the end of the fiscal year for either the general fund or
17 road fund that are less than the enacted estimates, as determined by the
18 Office of State Budget Director.

19 (19) "Surplus" means the undesignated fiscal year ending fund balance for the
20 general fund or road fund, reduced by amounts designated to carry forward for
21 appropriation in a subsequent fiscal year.

22 (20) "Six (6) year road plan" means the road plan developed under Section 20 of this
23 Act.

24 ~~(21)~~~~(16)~~ "Writing" or "written" means letters, words, or numbers, or their equivalent,
25 set down by handwriting, typewriting, printing, photostating, photographing,
26 magnetic impulse, mechanical or electronic recording, or other form of data
27 compilation.

1 ➔ Section 2. KRS 48.050 is amended to read as follows:

2 The head of each budget unit shall submit its budget unit request to the Office of State
 3 Budget Director~~[Finance and Administration Cabinet]~~, in the case of the executive
 4 branch, to the Chief Justice, in the case of the judicial branch, to the director of the
 5 Legislative Research Commission, in the case of the legislative branch; and to the
 6 Legislative Research Commission, not later than November 15 of each odd-numbered
 7 year.

8 ➔ Section 3. KRS 48.110 is amended to read as follows:

9 Each branch budget recommendation shall contain a complete financial plan for the
 10 branch of government for each of the next two (2) fiscal years. Each branch budget
 11 recommendation shall include:

12 (1) A budget message signed by:

13 (a) The Governor for the executive branch;~~[,]~~

14 (b) The Chief Justice for the judicial branch; and~~[, or]~~

15 (c) The co-chairmen of the Legislative Research Commission for the legislative
 16 branch;~~[their respective branches of government.]~~

17 (2) (a) Statements of income and receipts for~~[each of]~~ the two (2) fiscal years last
 18 concluded, and the estimated income and receipts, for each budget unit of the
 19 branch of government for~~[, of]~~ the current fiscal year and~~[of]~~ each of the next
 20 two (2) fiscal years.

21 (b) The statements of income and estimated income shall be itemized by budget
 22 unit~~[units]~~ and fund~~[funds, by sources]~~, and shall show separately receipts
 23 from:

24 1. Current income;~~[, receipts from]~~

25 2. Refunds and reimbursements of expenditures;~~[, receipts from]~~

26 3. The sale of assets;~~[,]~~ and

27 4. Receipts on account of the income of prior years~~[, all detailed by]~~

1 sources.}]

2 (c) Existing sources of income and receipts shall be analyzed as to their equity,
3 productivity and need for revision, and any proposed new sources of income
4 or receipts shall be explained.}]

5 (3) A statement of the surplus in any account and in any special fund of the branch of
6 government. If a surplus exists in any account of the branch of government the
7 statement shall show the excess of all current assets over all current liabilities as of
8 the beginning of each of the two (2) fiscal years last concluded, and all changes in
9 these accounts during each of such two (2) fiscal years.}]

10 (4) A statement as of the close of the last completed fiscal year and as of the close of
11 the current fiscal year showing, for each budget unit~~[of the branch of government]~~
12 the total funded debt, the value of sinking fund assets, the net funded debt, the
13 floating liabilities as of the end of the current fiscal year, and the total debt as of the
14 close of the last completed fiscal year and as of the close of the current fiscal
15 year.}]

16 (5) Summary and detailed comparative statements of expenditures itemized by budget
17 unit for each of the two (2) fiscal years last concluded and requests for
18 appropriations by funds or accounts, the budget of the current year,~~[and the~~
19 ~~requests of each budget unit]~~ and the recommendations for appropriations for each
20 of the next two (2) fiscal years. Following the lists of actual and proposed
21 expenditures of each budget unit there shall be a detailed explanation of the actual
22 and proposed expenditures, to include activities, beneficiaries and expected results
23 of the programs or services of the budget units.}]

24 (6) A draft of the proposed branch budget bill containing:

25 (a) Recommendations of the branch of government for appropriations for the next
26 two (2) fiscal years, and drafts of such revenue and other acts as may be
27 recommended for implementing~~[putting into effect]~~ the proposed financial

1 plan; ~~The recommended appropriations for ordinary recurring expenses shall~~
 2 ~~be itemized by budget units, and the amount of each of such recommended~~
 3 ~~appropriation shall be the total of the recommended amounts for the budget~~
 4 ~~units.]~~

5 **(b)** Recommended appropriations for extraordinary expenses and capital outlays,
 6 **which** shall be itemized in the proposed branch budget bill for the branch by
 7 budget unit. ~~and~~ The title of each budget unit shall be ~~so~~ worded ~~as~~ to
 8 limit each appropriation to the specific use or purpose intended; ~~The~~
 9 ~~recommended appropriation for each budget unit shall be specified in a~~
 10 ~~distinct and separate section of the proposed branch budget bill for the~~
 11 ~~branch.]~~

12 **(c)** *A plan for the reduction of the branch budget, if there is a revenue shortfall*
 13 *of five percent (5%) or less in the general fund or road fund. In*
 14 *recommending budget reductions, the Governor, the Chief Justice, and the*
 15 *Legislative Research Commission shall not recommend universal*
 16 *percentage reductions, but shall weigh the needs of all budget units and*
 17 *shall strive to protect the highest possible level of service in their respective*
 18 *branches. Services which are not essential to constitutional functions shall*
 19 *be subject to reduction. Transfer of funds may be authorized by the budget*
 20 *reduction plan;*

21 **(d)** *A plan for the expenditure of a general fund or road fund surplus of up to*
 22 *two and one-half percent (2.5%).*

23 *1. The plan shall include provisions for the expenditure of a surplus, and*
 24 *may provide for additional moneys for nonrecurring expenditures for*
 25 *which an appropriation was not made in a branch budget bill, or for a*
 26 *program or service authorized by law for which an appropriation was*
 27 *not made, or which was not fully funded.*

1 2. In lieu of recommending the appropriation of funds, the plan may
 2 instead recommend the retention of surplus funds in the surplus
 3 account of the general fund or road fund for investment until
 4 appropriated by the General Assembly;

5 (e) A recommended state capital projects program and a recommended
 6 program for the purchase of major items of equipment.

7 1. The recommended capital construction program shall include:

8 a. A complete list and summary description of each specific capital
 9 construction project recommended for funding during the
 10 biennium; and

11 b. For each project:

12 i. The agency and purpose for which it will be used;

13 ii. The justification for the project;

14 iii. Its estimated completion date;

15 iv. The total estimated cost of completing the project;

16 v. The estimated cost of the project during the biennium;

17 vi. The recommended sources of funds for the entire project;

18 and

19 vii. The dollar amounts recommended for appropriation and

20 the dollar amounts, listed by source, that are anticipated

21 from every other source of funds for the biennium.

22 2. All information required by subparagraph 1. of this paragraph shall
 23 be included in each branch budget recommendation. Each branch
 24 budget bill shall contain only a complete list of the specific capital
 25 construction projects recommended for funding during the biennium
 26 and, for each project, the information specified in subparagraph
 27 1.b.v., vi., and vii. of this paragraph.

1 3. A report which details the effect of recommended new debt on the debt
 2 position of the Commonwealth shall be submitted at the same time the
 3 recommended capital program is submitted. Information shall be
 4 presented separately, and in total, for the general fund, road fund, and
 5 any affected restricted fund account.

6 4. Information in the report shall include but not be limited to the
 7 following:

8 a. Debt service on existing appropriation-supported debt, as a
 9 percentage of anticipated total revenues;

10 b. Debt service on existing appropriation-supported debt, as a
 11 percentage of anticipated available revenues;

12 c. The sum of debt service on existing appropriation-supported debt
 13 and debt service on recommended new appropriation-supported
 14 debt, as a percentage of anticipated total revenues;

15 d. The sum of debt service on existing appropriation-supported debt
 16 and debt service on recommended new appropriation-supported
 17 debt, as a percentage of anticipated available revenues;

18 e. The sum of debt service on existing appropriation-supported debt
 19 and debt service on recommended new appropriation-supported
 20 debt, as a percentage of estimated state total personal income;
 21 and

22 f. The sum of existing appropriation-supported debt and
 23 recommended new appropriation-supported debt, as a percentage
 24 of estimated state total personal income.

25 5. The recommended program for the purchase of major items of
 26 equipment submitted by the head of each branch of government shall
 27 include:

1 a. A complete list and summary description of each specific major
 2 item of equipment recommended for purchase during the
 3 biennium; and

4 b. For each major item of equipment:

5 i. The agency and purpose for which it will be used;

6 ii. The justification for the purchase;

7 iii. The estimated cost of the item, including ancillary expenses
 8 and any expenses necessary to make the equipment
 9 functional and operational;

10 iv. The recommended sources of funds; and

11 v. The dollar amounts recommended for appropriation and
 12 anticipated from every other source of funds for the
 13 purchase.

14 6. All information required by subparagraph 4. of this paragraph shall
 15 be included in the executive branch budget recommendation. The
 16 branch budget bill for the executive branch shall contain only a
 17 complete list of each specific item of major equipment recommended
 18 for purchase during the biennium and, for each item, the information
 19 specified in subparagraph 5.b.iii., iv., and v. of this paragraph;

20 (f) The branch budget recommendation for the Transportation Cabinet shall
 21 include the following information:

22 1. A separate branch budget bill;

23 2. A recommended biennial highway construction plan, which shall be
 24 presented as a separate bill, and which shall include a list of
 25 individual transportation projects included in the last four (4) years of
 26 the six (6) year road plan, not to exceed ten percent (10%) of the
 27 recommended biennial highway construction appropriation, which

can be advanced if:

a. Additional funds are received; and

b. All projects included in the biennial highway construction plan have been advanced or completed to the extent possible; and

3. The six (6) year road plan. The Governor shall have ten (10) working days after submission of the branch budget recommendation and the recommended biennial highway construction plan to submit the six (6) year road plan. The six (6) year road plan shall be submitted in a form and format cooperatively developed by the Transportation Cabinet and the General Assembly and approved by the Legislative Research Commission; and

(g) In the executive branch budget recommendation, as a separate section, an amount sufficient to meet unexpected contingencies or emergencies, including but not limited to natural or man-made disasters, civil disorders, court orders requiring or resulting in the expenditure of state funds, or other related causes.

1. The amount shall be based on the nature, type, and frequency of named categories of events which may, from past experience, be reasonably anticipated.

2. This portion of the budget recommendation shall detail similar incidents and the nature and amount of the expenditures for each during the ten (10) years immediately preceding.

The total amount of appropriations recommended from any fund shall not exceed the cash resources estimated to be available and to become available to meet expenditures under ~~the~~^[such] appropriations;[-]

(7) A certificate of the branch of government as to the accuracy of the statements of financial condition, of income and receipts, and of expenditures; and.

1 (8) Such other information as is deemed desirable, or is required by law or regulation.

2 ➔ Section 4. KRS 48.115 is amended to read as follows:

3 (1) ~~[Except as provided for in subsection (4) of this section,]~~ The ~~[detailed]~~ revenue
 4 estimates for the general fund and the road fund required by KRS 48.120 shall be
 5 based on a consensus revenue forecast. The **planning report, preliminary revenue**
 6 **estimates, and official revenue estimates required by Section 5 of this**
 7 **Act** ~~[consensus revenue forecast]~~ shall be developed by the consensus forecasting
 8 group. The members of the consensus forecasting group shall be jointly selected by
 9 the state budget director and the Legislative Research Commission. The members
 10 shall be knowledgeable about the state and national economy and the revenue and
 11 financial conditions of the Commonwealth.

12 (2) ~~If, after the revenue estimates made as required under KRS 48.120,~~ the Legislative
 13 Research Commission or state budget director determines that a revision to the
 14 **official** revenue estimates is needed, the Legislative Research Commission or state
 15 budget director shall request a revision from the consensus forecasting group. The
 16 revised revenue estimates shall become the official revenue estimates.

17 (3) **The enacted budget reduction plan required by Section 6 of this Act shall be**
 18 **implemented only:**

19 **(a) Upon the issuance of an official revenue estimate from the consensus**
 20 **forecasting group reflecting a revenue shortfall of five percent (5%) or less;**

21 **or**

22 **(b) At the end of a fiscal year, upon the existence of an actual revenue shortfall**
 23 **of five percent (5%) or less, as determined by the Office of State Budget**
 24 **Director.**

25 **(4)** The state budget director shall coordinate with the Department of Revenue and the
 26 Transportation Cabinet to ensure that the financial and revenue data required for the
 27 forecasting process is made available to the consensus forecasting group.

1 ~~(5)~~~~(4)~~ Staff for the consensus forecasting group shall be provided by the Legislative
2 Research Commission.

3 ➔ Section 5. KRS 48.120 is amended to read as follows:

4 (1) By August 15 of each odd-numbered year, the Office of State Budget Director, in
5 conjunction with the consensus forecasting group, shall provide to each branch
6 of government a budget planning report. The budget planning report shall
7 include:

8 (a) A baseline analysis and projections of economic conditions and outlook;

9 (b) Any potential consequences of the analysis and projections for the
10 Commonwealth's fiscal condition;

11 (c) The revenue estimates and implications for the general fund and road fund
12 for the current fiscal year and next four (4) fiscal years; and

13 (d) Projections of personal income, employment, and economic indicators that
14 reflect economic conditions.

15 (2) By October 15 of each odd-numbered year, the Office of State Budget Director shall
16 provide to each branch of government~~[the]~~ preliminary~~[detailed]~~ revenue estimates
17 made by the consensus forecast group~~[in accordance with the provisions of KRS~~
18 ~~48.115]~~ for the general fund and road fund for the current and next two (2) fiscal
19 years, including explanatory statements, and a comparative record of the actual
20 revenues of these funds for each of the last two (2) years concluded.

21 ~~(3)~~~~(2)~~ On or before the fifteenth legislative day, the Office of State Budget Director
22 shall certify and present to the General Assembly the official~~[final detailed]~~ revenue
23 estimates made by the consensus forecasting group for the general fund and road
24 fund for the current and next two (2) fiscal years~~[in accordance with the~~
25 ~~provisions of KRS 48.115 for these funds].~~

26 ~~(4)~~~~(3)~~ Appropriations made in the branch budget bills enacted for each branch of
27 government shall be based upon the official revenue estimates presented to the

General Assembly by the Office of State Budget Director under subsection ~~(3)~~~~(2)~~ of this section, as modified by ~~the appropriations committees of~~ the General Assembly.

(5) The enacted estimates shall become the official revenue estimates of the Commonwealth upon the branch budget bills becoming law, and shall remain the official revenue estimates of the Commonwealth until revised by the consensus forecasting group as provided in Section 4 of this Act.

➔ Section 6. KRS 48.130 is amended to read as follows:

- (1) The **General Assembly shall include in each enacted branch budget bill a budget reduction plan for a revenue shortfall in the general fund or road fund of five percent (5%) or less. The budget reduction plan shall direct how budget reductions shall be implemented if there is a revenue shortfall of five percent (5%) or less**~~branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, if projected or actual tax receipts accruing to the general fund or road fund are five percent (5%) or less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120].~~
- ~~(2) (a) In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;~~
- ~~(b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;~~
- ~~(c) A layoff of state employees in the executive branch under the budget~~

1 reduction plan enacted by the General Assembly shall comply with the
 2 provisions of KRS 18A.1132~~]; and~~

3 ~~(d) A layoff of state employees in the executive branch required by an actual or~~
 4 ~~projected deficit in tax receipts contemplated by subsection (5) of this section~~
 5 ~~shall comply with the provisions of KRS 18A.1132].~~

6 (3) Any revenue shortfall in the general fund or road fund of greater than five
 7 percent (5%) shall require action by the General Assembly~~[The plan shall be~~
 8 ~~enacted as modified by the General Assembly in each branch budget bill].~~

9 (4) Upon the issuance of an official revenue estimate by the consensus forecasting
 10 group reflecting a revenue shortfall in the general fund or road fund, or upon the
 11 existence of an actual revenue shortfall in the general fund or road fund at the
 12 close of a fiscal year as determined by the Office of State Budget Director~~[Based~~
 13 ~~upon the information provided in KRS 48.400 and in the event of an actual or~~
 14 ~~projected deficit in tax receipts provided for by this section], the Office of State~~
 15 ~~Budget Director shall notify all branches of government.~~ If the revenue shortfall is
 16 five percent (5%) or less, the following actions shall be taken:

17 (a) The unappropriated balance of funds in the surplus accounts of the general
 18 fund or road fund shall first be used to meet the shortfalls in those
 19 respective funds; and

20 (b) If the amounts described in paragraph (a) of this subsection are insufficient
 21 to address the revenue shortfall, the enacted budget reduction plan included
 22 in each branch budget bill shall be implemented~~[funds that have accrued to~~
 23 ~~the surplus accounts of the general or road funds are not sufficient to meet~~
 24 ~~these deficits, the allotments to the respective branches shall be reduced~~
 25 ~~according to the reduction provisions embodied in the branch budget bill, and~~
 26 ~~the Governor, the Chief Justice, and the Legislative Research Commission~~
 27 ~~shall automatically implement budget reductions for their respective branches~~

1 according to the reduction provisions embodied in the branch budget bill; and
 2 (b) ~~In the event funds that have accrued to the surplus accounts of the general or~~
 3 ~~road funds are sufficient to meet these deficits, transfers from these surplus~~
 4 ~~accounts shall be made, as appropriate, and the budget reduction provisions~~
 5 ~~embodied in the branch budget bill shall not be implemented.~~

6 (5) ~~Based upon the information provided in KRS 48.400 and in the event of an actual~~
 7 ~~or projected deficit in tax receipts of five percent (5%) or less, the Governor, the~~
 8 ~~Chief Justice, and the Legislative Research Commission shall implement budget~~
 9 ~~reductions for their respective branches consistent with the provisions of the~~
 10 ~~enacted branch budget bills].~~

11 (5) [(6)] The budget reduction plan for each branch of government may [shall] provide
 12 that the annual increment granted state employees under KRS 18A.355 shall be
 13 reduced as provided by KRS 18A.355. Any [such] reduction of the annual
 14 increment shall be uniform for all employees.

15 (6) No budget reduction action shall be taken by any branch head in excess of the
 16 actual or projected deficit.

17 (7) If general fund or road fund tax receipts increase over the revenues estimated in the
 18 official revenue estimate that resulted in reductions [estimated deficits], then
 19 services may [shall] be restored in the reverse order of the reduced services.

20 [(8) This section shall not preclude the General Assembly, in regular or special session,
 21 from amending a branch budget bill requiring budget reductions nor shall it
 22 preclude the Governor from calling a special session of the General Assembly at
 23 any time the budget reduction plan is in effect.

24 (9) ~~No budget reduction action shall be taken by any branch head in excess of the actual~~
 25 ~~or projected deficit.]~~

26 ➔ Section 7. KRS 48.140 is amended to read as follows:

27 (1) ~~The branch budget recommendation submitted by the Governor, the Chief Justice,~~

1 and the Legislative Research Commission shall include a plan for the expenditure of
 2 general or road fund tax receipts up to two and one half percent (2.5%) in excess of
 3 the tax receipts estimates for the funds as determined by subsection (3) of KRS
 4 48.120.

5 (2) ~~The plan shall contain provisions for the expenditure of such excess general fund~~
 6 ~~and road fund tax receipts. This plan shall provide for additional moneys for~~
 7 ~~nonrecurring expenditures for which an appropriation was not made in a branch~~
 8 ~~budget bill, or for a program or service authorized by law for which an~~
 9 ~~appropriation was not made or which program was not fully funded. No expenditure~~
 10 ~~shall be recommended for any other purpose.~~

11 (3) ~~In lieu of recommending the expenditure of such sums, the Governor, the Chief~~
 12 ~~Justice, or the Legislative Research Commission, may elect to recommend the~~
 13 ~~return of such sums or any portion thereof to the surplus account of the general fund~~
 14 ~~or road fund for investment until such time as it is appropriated by the General~~
 15 ~~Assembly.~~

16 (4) *The General Assembly shall include in each enacted branch budget bill* a plan for
 17 the *expenditure*[expenditures] of *a general fund or road fund*[such] surplus[funds
 18 shall be enacted as modified by the General Assembly in each branch budget bill].

19 (2)[(5)] *If there is*[In the event of] a surplus[in tax receipts provided for by this
 20 section], the *Office of State Budget Director*[Finance and Administration Cabinet]
 21 shall notify all branches of government.

22 (3)[(6)] Except as provided in KRS 48.705, any *surplus in the* general or road fund[
 23 receipts] in excess of two and one-half percent (2.5%) of the *enacted*[tax revenue]
 24 estimates[determined under subsection (3) of KRS 48.120, or in excess of any
 25 appropriation made in a branch budget bill applying such receipts] shall not be
 26 expended but shall accrue to the surplus account of the general fund or road fund for
 27 investment until appropriated by the General Assembly.

1 ~~(4)~~~~(7)~~ Unless required by the budget reduction provisions in a branch budget bill, no
2 funds shall be transferred from one budget unit to another budget unit.

3 ~~(5)~~~~(8)~~ Surplus funds in any account, unless a statute requires otherwise, shall lapse to
4 the surplus account of the general fund for investment until appropriated by the
5 General Assembly.

6 ~~(6)~~~~(9)~~ Funds in the surplus account of the general fund may be used for current
7 expenditures as authorized by the budget reduction provisions of a branch budget
8 bill.

9 ➔Section 8. KRS 48.150 is amended to read as follows:

- 10 (1) *As used in this section, "unexpected emergencies and contingencies" includes*
11 *but is not limited to natural or man-made disasters, civil disorders, court orders*
12 *requiring or resulting in the expenditure of state funds, or other related*
13 *causes*~~[Each branch of government shall submit in its budget recommendation, as a~~
14 ~~separate portion thereof by budget unit, a request for moneys sufficient to meet~~
15 ~~unexpected contingencies or emergencies including but not limited to natural or~~
16 ~~man-made disasters, civil disorders, court orders requiring or resulting in the~~
17 ~~expenditure of state funds or other related causes].~~
- 18 (2) ~~Any~~~~[The amount shall be based on the nature, type, and frequency of named~~
19 ~~categories of events which may, from past experience, be reasonably anticipated.~~
- 20 (3) ~~This portion of the budget recommendation shall detail similar incidents and the~~
21 ~~nature and amount of the expenditures for each during the ten (10) years~~
22 ~~immediately preceding.~~
- 23 (4) ~~These~~ appropriations *made in an enacted branch budget bill to address*
24 *unexpected emergencies and contingencies:*
- 25 *(a)* Shall not be expended for contingencies relating to capital construction
26 projects or major items of equipment as defined by KRS 45.770; *and*
- 27 *(b)* ~~[(5) Amounts appropriated under this section]~~ Shall not be expended unless

1 appropriations made for the same or similar purposes have been exhausted.

2 ~~(3)~~~~(6)~~ Each branch of government shall report expenditures for unexpected
 3 emergencies and contingencies, whether paid from appropriated funds or as a
 4 necessary governmental expenditure,~~[under this section]~~ to the standing
 5 appropriations committees of the General Assembly or the Interim Joint Committee
 6 on Appropriations and Revenue as appropriate.

7 ➔Section 9. KRS 48.210 is amended to read as follows:

8 From the time of the submission of the budget recommendation of each branch of
 9 government to the General Assembly~~[House of Representatives]~~ until the enactment of
 10 all branch budget bills, representatives of each branch of government shall be at the
 11 disposal of the General Assembly and its appropriations committees and shall devote as
 12 much of their time as may be required to the work of those committees, under the
 13 direction of their respective chairmen. The Finance and Administration Cabinet and the
 14 Office of State Budget Director shall provide such additional assistance to each branch of
 15 government as may be required.

16 ➔Section 10. KRS 48.300 is amended to read as follows:

17 (1) (a) The financial plan for each fiscal year as presented in the~~[a]~~ branch budget
 18 recommendation shall be adopted, with any~~[such]~~ modifications~~[as are]~~ made
 19 by the General Assembly, by the passage of a branch budget bill for each
 20 branch of government, and any~~[such]~~ revenue and other acts as~~[are]~~
 21 necessary~~[for the purpose]~~.

22 (b) With regard to the Transportation Cabinet, the General Assembly shall:

- 23 1. Enact, as a separate bill, a branch budget for the Transportation
 24 Cabinet;
- 25 2. Enact, as a separate bill, the biennial highway construction plan, as
 26 amended by the General Assembly, including identification of projects
 27 from the last four (4) years of the six (6) year road plan that may be

moved forward, and the conditions and requirements under which the identified projects may be moved forward; and

3. Adopt the last four (4) years of the six (6) year road plan, as amended by the General Assembly, as a joint resolution.

(2) Prior to the passage of a branch budget bill and any other acts necessary, the appropriations committees of the General Assembly shall prepare a budget memorandum *for each branch of government*. The budget memorandum shall enumerate the changes made by the appropriations committees ~~to~~ⁱⁿ a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees.

(3) In administering the provisions of a branch budget bill, a branch head shall interpret provisions of the branch budget bill in conformity with the budget memorandum.

➔Section 11. KRS 48.315 is amended to read as follows:

(1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; 21.347; 21.540; 21.560; 42.500; 47.010; 48.010~~(15)~~~~(13)~~(g); 56.100; 61.470; 64.345; 64.350; 64.355; 95A.220; 136.392; 138.510; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 248.540; 248.550; 278.130; 278.150; 286.1-485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.

(2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.

1 (3) Any provisions of any statute in conflict with the provisions of subsections (1) and
 2 (2) of this section are hereby suspended or modified. Any suspension or
 3 modification shall not extend beyond the duration of the budget bill.

4 ➔Section 12. KRS 48.400 is amended to read as follows:

- 5 (1) The Office of State Budget Director shall continuously monitor the financial
 6 situation of the Commonwealth. Based upon reports from budget units and its own
 7 estimates, the office shall no later than the tenth day of each month or more often if
 8 necessary, report to the Governor, Chief Justice, and the Legislative Research
 9 Commission on the financial condition of the Commonwealth and its budget units.
- 10 (2) Within thirty (30) days of the close of each fiscal quarter, the state budget director
 11 shall report to the head of each branch budget the actual revenue receipts from the
 12 just-concluded quarter, as well as the projected revenue receipts for the next three
 13 (3) fiscal quarters. The report shall include a comparison with the enacted
 14 estimates~~[estimated revenue receipts upon which the branch budget bills were~~
 15 ~~developed pursuant to KRS 48.120]~~ and shall note any potential consequences to
 16 the Commonwealth's fiscal condition as a result of~~[actual or projected]~~ revenue
 17 receipts that differ from those used in the enacted estimates~~[development of the~~
 18 ~~branch budget bills]~~.
- 19 (3) ~~If [In the event]~~ there is an actual or anticipated surplus or decrease in total
 20 estimated tax receipts, as reflected in the report required by~~[determined under KRS~~
 21 ~~48.120(3) and]~~ subsection (2) of this section, immediate notification shall be given
 22 to all branches of government.

23 ➔Section 13. KRS 48.500 is amended to read as follows:

- 24 (1) Subject to the provisions of this section, when the General Assembly is not in
 25 session, all questions that arise as to the meaning of items in a branch budget bill
 26 shall be decided by the Finance and Administration Cabinet for the executive
 27 branch budget bill and the Transportation Cabinet budget bill, and~~[,]~~ by the Chief

1 Justice, and by the Legislative Research Commission for their respective branches
2 of government.

3 (2) A decision made under subsection (1) of this section shall conform to the
4 appropriate budget memorandum provided for by KRS 48.300.

5 (3) The secretary of the Finance and Administration Cabinet, the Chief Justice, and the
6 Legislative Research Commission shall transmit decisions made under subsection
7 (1) of this section to the Interim Joint Committee on Appropriations and Revenue of
8 the Legislative Research Commission and shall include, in detail, the reasons for
9 such decisions.

10 (4) If the Interim Joint Committee on Appropriations and Revenue disapproves a
11 decision made under this section, the decision shall not be implemented unless it is:

12 (a) Revised to comply with the objections of the committee; or

13 (b) The committee is informed, in writing, in detail, within thirty (30) days of the
14 committee's disapproval, that a determination has been made not to comply
15 with the objections of the committee.

16 ➔Section 14. KRS 48.600 is amended to read as follows:

17 (1) If an official revenue estimate is issued reflecting a revenue shortfall in the
18 general fund or road fund of five percent (5%) or less, or if there is an actual
19 revenue shortfall at the close of a fiscal year in the general fund or road fund of
20 five percent (5%) or less, as determined by the Office of State Budget Director~~[In~~
21 ~~the event of an actual or projected deficit, as determined by the Office of State~~
22 ~~Budget Director, in total tax receipts, as specified in KRS 48.130, of five percent~~
23 ~~(5%) or less]~~, the Governor, the Chief Justice, and the Legislative Research
24 Commission shall make any appropriation~~[allotment]~~ reductions for the budget
25 units of their respective branches of government in accordance with the budget
26 reduction plan included in the enacted branch budget bill~~[that are deemed~~
27 ~~necessary and shall take any steps to revise allotments for their respective branches~~

1 ~~that are necessary to prevent a cash deficit].~~

2 (2) No budget revision action shall be taken by any branch head in excess of the actual
3 or projected revenue shortfall~~[deficit]~~.

4 (3) Appropriation reductions~~[Allotment revisions]~~ shall be reported to the standing
5 Appropriations and Revenue Committees of each house or to the Interim Joint
6 Committee on Appropriations and Revenue, as appropriate.

7 ➔Section 15. KRS 48.620 is amended to read as follows:

8 (1) Allotments shall be made as provided by the allotment schedule, and may be
9 revised upon the written certification of the Governor, the Chief Justice, and the
10 Legislative Research Commission for their respective branches of government. No
11 revisions of the allotment schedule may provide for an allotment or allotments in
12 excess of the amount appropriated to that budget unit in a branch budget bill, or for
13 expenditure for any other purpose than specified in a branch budget bill and a
14 budget memorandum provided for by KRS 48.300.

15 (2) Revisions of allotments under this section shall be reported and reviewed as
16 provided by subsection (4) of KRS 48.500.

17 ~~[(3) When the actual tax receipts accruing to the general fund or road fund, as
18 appropriate, do not permit all the allotments provided for by the schedules of
19 allotments of all branches of government, the secretary of the Finance and
20 Administration Cabinet shall notify all branches of government and each branch
21 shall take appropriate action concerning allotments.~~

22 ~~(4) This subsection shall not apply in the event of a projected or an actual deficit in tax
23 receipts of the general or road funds as determined by KRS 48.130.]~~

24 ➔Section 16. KRS 48.700 is amended to read as follows:

25 There is hereby created in the general fund of the State Treasury a surplus fund account
26 subject to the following terms and conditions:

27 (1) It shall contain all surplus tax receipts accruing to the general fund as provided by

1 subsection ~~(3)~~~~(6)~~ of KRS 48.140.

2 (2) Except as provided in KRS 48.705, it shall contain all funds lapsed from general
3 fund receipts not otherwise appropriated.

4 (3) It shall contain all receipts from the sale of surplus property purchased with general
5 fund tax receipts and not otherwise appropriated.

6 (4) Except as provided in KRS 48.705, it shall contain all general fund tax revenues in
7 excess of estimates.

8 (5) It shall contain all moneys saved as a result of a reorganization of state government
9 operations funded by the general fund.

10 (6) Funds in the account shall be invested at interest and the interest shall also accrue to
11 this account.

12 (7) It shall contain any other funds which are required by law or regulation to accrue to
13 the surplus account of the general fund.

14 (8) No expenditures shall be made from this account unless appropriated by the General
15 Assembly or unless required by the budget reduction provisions of a branch budget
16 bill, or as provided by KRS 48.130.

17 ➔Section 17. KRS 48.705 is amended to read as follows:

18 (1) A budget reserve trust fund account is hereby created in the general fund, pursuant
19 to KRS 45.305. The budget reserve trust fund account shall be funded through
20 direct appropriations, *and* surplus *amounts as provided in subsection (2) of this*
21 *section*~~[revenue receipts in the general fund, and certain unexpended~~
22 ~~appropriations]~~. Moneys in the account shall remain unallotted unless required by
23 the provisions of this section.

24 (2) (a) ~~[Beginning with the fiscal year starting on July 1, 1995, and for]~~Each fiscal
25 year~~[thereafter]~~, except as provided in subsection (3) of this section, within
26 thirty (30) days of the end of ~~the~~~~[each]~~ fiscal year, the secretary of the Finance
27 and Administration Cabinet shall cause to be deposited to the budget reserve

1 trust fund account the lesser of the following amounts:

2 1. Fifty percent (50%) of ~~the~~[all] general fund surplus[~~revenue receipts in~~
3 ~~excess of the revenue estimates determined under KRS 48.120(3), or the~~
4 ~~amount subsequently certified by the state budget director pursuant to~~
5 ~~KRS 48.400(3) for the year just ended; and fifty percent (50%) of the~~
6 ~~unexpended balance of all general fund appropriations for the fiscal year~~
7 ~~just ended that would otherwise lapse to the general fund surplus~~
8 ~~account under KRS 45.229]; or~~

9 2. The amount necessary[,] from ~~the~~ general fund surplus[~~revenue receipts~~
10 ~~in excess of the revenue estimates determined under KRS 48.120(3), or~~
11 ~~the amount subsequently certified by the state budget director pursuant~~
12 ~~to KRS 48.400(3) for the year just ended, and from the unexpended~~
13 ~~balance of all general fund appropriations for the fiscal year just ended~~
14 ~~that would otherwise lapse to the surplus account under KRS 45.229,] to~~
15 make the balance of the budget reserve trust fund account equal to five
16 percent (5%) of the actual general fund[~~revenue~~] receipts collected
17 during the fiscal year just ended, as determined by the Finance and
18 Administration Cabinet.

19 (b) Any amounts to be deposited to the budget reserve trust fund account from ~~the~~
20 general fund surplus[~~revenue receipts in excess of the revenue estimates~~
21 ~~determined under KRS 48.120(3) or the amount subsequently certified by the~~
22 ~~state budget director pursuant to KRS 48.400(3)] shall be determined after the~~
23 surplus has[~~excess receipts have~~] been reduced by the amount necessary to
24 implement the provisions of any surplus expenditure plan authorized by KRS
25 48.140 and enacted as a part of a branch budget bill.

26 (3) If, at the close of any fiscal year, the budget reserve trust fund account has a balance
27 equal to or greater than five percent (5%) of the actual general fund[~~revenue~~]

1 receipts collected during the fiscal year just ended, as determined by the Finance
 2 and Administration Cabinet, the deposits required under subsection (2) of this
 3 section shall be suspended for that year.

4 (4)~~[(a)]~~ Moneys in the budget reserve trust fund account may be appropriated by the
 5 General Assembly in a regular or special session.

6 ~~[(b) Funds from the budget reserve trust fund account may be used pursuant to the
 7 provisions of KRS Chapter 47 if actual general fund revenue receipts are not
 8 sufficient to meet the general fund appropriation levels authorized by the
 9 General Assembly in the branch budget bills for the executive, legislative, and
 10 judicial branches, as determined under KRS 48.130 and 48.600, or an
 11 appropriation provision in any act.]~~

12 (5) Before authorizing any allotments from the budget reserve trust fund account, the
 13 secretary of the Finance and Administration Cabinet shall notify in writing the
 14 Interim Joint Committee on Appropriations and Revenue. The notice shall include
 15 the amount and purpose for the proposed allotment.

16 (6) Within thirty (30) days of the close of each fiscal year, the secretary of the Finance
 17 and Administration Cabinet shall report to the Interim Joint Committee on
 18 Appropriations and Revenue the general fund~~[revenue]~~ receipts collected for the
 19 fiscal year just ended, the balance of the budget reserve trust fund account, and any
 20 amounts deposited to the budget reserve trust fund account pursuant to the
 21 provisions of subsection (2) of this section.

22 (7) All sums appropriated or deposited to the budget reserve trust fund account shall
 23 not lapse at the close of the fiscal year but shall carry forward into the next fiscal
 24 year~~[and shall remain available for the purposes of this section].~~

25 ➔Section 18. KRS 48.710 is amended to read as follows:

26 There is hereby created in the road fund of the State Treasury a surplus fund account
 27 subject to the following terms and conditions:

- 1 (1) It shall contain all surplus tax receipts accruing to the road fund as provided by
2 subsection ~~(3)~~~~{(6)}~~ of KRS 48.140.
- 3 (2) It shall contain all funds lapsed from moneys originating from road fund receipts;
- 4 (3) It shall contain all receipts from the sale of surplus property purchased with road
5 fund receipts;
- 6 (4) It shall contain all road fund receipts in excess of estimates;
- 7 (5) It shall contain all moneys saved as a result of a reorganization of state government
8 operations funded by the road fund;
- 9 (6) Funds in the account shall be invested at interest and the interest shall also accrue to
10 this account;
- 11 (7) It shall contain any other funds which are required by law or regulation to accrue to
12 the surplus account of the road fund;
- 13 (8) No expenditures shall be made from this account unless appropriated by the General
14 Assembly or unless required by budget reduction provisions of a branch budget bill,
15 or as provided by KRS 48.130.

16 ➔Section 19. KRS 176.010 is amended to read as follows:

17 As used in this chapter, unless the context requires otherwise:

- 18 (1) "Biennial highway construction plan" means the specifically identified
19 individual transportation projects or portions thereof identified for funding
20 during the upcoming biennium, which correspond to the first two (2) years of the
21 six (6) year road plan;
- 22 (2) "Department" means Department of Highways;~~{ and }~~
- 23 ~~(3)~~~~{(2)}~~ "Project" means the design, right-of-way, utility, or construction phase of a
24 highway construction project;
- 25 (4) "Roads" includes highways, bridges, and bridge approaches; and
- 26 (5) "Six (6) year road plan" means the plan developed under Section 20 of this Act.

27 ➔Section 20. KRS 176.430 is amended to read as follows:

1 (1) The Transportation Cabinet shall undertake a continuing study of the needs of
 2 the highways under its jurisdiction for the purpose of bringing existing facilities
 3 to acceptable standards or for the replacement of existing facilities when
 4 required.

5 (2) The Transportation Cabinet shall develop a recommended six (6) year road plan
 6 that identifies the individual transportation projects or portions thereof that are
 7 scheduled to be constructed in each county. The recommended six (6) year road
 8 plan shall include a recommended biennial highway construction plan. The
 9 recommended six (6) year road plan and recommended biennial highway
 10 construction plan shall be submitted to the General Assembly as required by
 11 subsection (6)(f) of Section 3 of this Act. The six (6) year road plan shall include
 12 but shall not be limited to the following information for each project:

13 (a) The county name;

14 (b) The Kentucky Transportation Cabinet project identification number;

15 (c) The route where the project is located;

16 (d) The length of the project;

17 (e) A description of the project and the scope of improvement;

18 (f) The type of local, state, or federal funds to be used on the project;

19 (g) The stage of development for the design, right-of-way, utility, and
 20 construction phase;

21 (h) The fiscal year in which each phase of the project should commence;

22 (i) The estimated cost for each phase of the project; and

23 (j) The estimated cost to complete the project.

24 (3) [It is the intent of the General Assembly to direct]The Transportation Cabinet
 25 shall[te] identify projects in the six (6) year road plan that may, in accordance with
 26 this section, be advanced from later years, to maximize the use of all funds available
 27 to the cabinet, and to plan for the historical precedent of projects being delayed due

1 to unforeseen circumstances. As required by Section 3 of this Act,~~[To accomplish~~
 2 ~~the purpose of this section,]~~ the Governor~~[cabinet]~~ shall submit to the General
 3 Assembly, as part of the proposed biennial highway construction plan~~[at the same~~
 4 ~~time the six (6) year road plan is submitted],~~ a list of projects from the last four (4)
 5 years of the six (6) year road plan, not to exceed ten percent (10%) of the
 6 recommended biennial highway construction appropriation~~[expected~~
 7 ~~appropriations for the biennium],~~ which can be advanced if additional money is
 8 received and all projects included in the enacted biennial highway construction
 9 plan have been advanced or completed to the extent possible~~[or if a project in the~~
 10 ~~biennium is delayed.~~

11 ~~(2) In addition to the list submitted by the cabinet under subsection (1) of the section,~~
 12 ~~the cabinet shall develop a separate list of projects from the last four (4) years of the~~
 13 ~~six (6) year road plan, not to exceed ten percent (10%) of the actual biennial~~
 14 ~~highway construction appropriation, which can be advanced if additional money is~~
 15 ~~received or if a project in either year of the biennium is delayed. This list shall be~~
 16 ~~reported to the Legislative Research Commission.~~

17 ~~(3) Any project that is accelerated under subsections (1) or (2) of this section shall be~~
 18 ~~reported to the Legislative Research Commission.~~

19 ~~(4) The cabinet may change the fund source on any project in the six (6) year road plan~~
 20 ~~to maximize the efficient use of federal funds.~~

21 ~~(5) The projects to be funded in the last four (4) years of the six (6) year plan shall not~~
 22 ~~exceed revenue estimates provided by the Transportation Cabinet].~~

23 ~~(4)~~~~(6)~~ In developing the design, right-of-way, utility, and construction phase of each
 24 project, the following factors shall be considered but are not exclusive:

- 25 (a) Alignment of existing roads;
- 26 (b) The width or elevation of existing roadways and shoulder surfaces;
- 27 (c) The width of rights-of-way;

- 1 (d) The cost of each phase of the project plus a separate identification of the
- 2 cabinet's administrative costs for each phase;
- 3 (e) The type and volume of traffic;
- 4 (f) The condition of structures and drainage;
- 5 (g) The accident rate;
- 6 (h) The geographic distribution of roadways to be constructed or reconstructed;
- 7 and
- 8 (i) The social, economic, and environmental impact of the proposed project.

9 ~~[(7) The six (6) year road plan shall designate the fiscal year each phase is scheduled to~~
 10 ~~commence, a cost estimate for each phase, and a projected date for each phase to~~
 11 ~~begin.~~

12 ~~(5) [(8)]~~ The Transportation Cabinet shall, on a monthly basis, transmit
 13 electronically~~[electronic data]~~ to the General Assembly through the Legislative
 14 Research Commission a report on all activity relating to all projects with open
 15 activity conducted by the Transportation Cabinet during the biennium. The data for
 16 each project shall contain all cabinet activity on projects funded through the road
 17 fund, including resurfacing and rural and secondary projects, and shall also include
 18 but not be limited to the following:

- 19 (a) District number and project item number, which shall remain in effect
- 20 throughout the entire life of the project, subject to the following conditions:
- 21 1. A project split into more than one (1) project during its life shall
- 22 maintain the same item number with a suffix;
- 23 2. Two (2) or more projects merged shall be identified by the new merged
- 24 project maintaining the project item number of one (1) of the projects
- 25 being merged. The total cost of the merged project shall be set forth; and
- 26 3. A project that has been merged with another project and all funds
- 27 authorized for the initial project that is subsequently shifted to the new

- 1 merged project shall remain in the six (6) year road plan and shall be
- 2 identified with a cross reference to the superseded project and
- 3 superseded project item number;
- 4 (b) The county name and county number;
- 5 (c) The route prefix, route number, and route suffix;
- 6 (d) Termini description including beginning milepoint and ending milepoint;
- 7 (e) Type of work;
- 8 (f) Length of the project in miles;
- 9 (g) Project authorization system number, date the project was authorized, the TD-
- 10 10 number authorizing the project, and the amount authorized;
- 11 (h) Year the project was enacted in a six (6) year road plan, and the notation "A"
- 12 if the project is active and the notation "I" if the project is inactive;
- 13 (i) The phase code "P" for the planning phase, "D" for the design phase, "R" for
- 14 the right-of-way phase, "U" for the utility phase, and "C" for the construction
- 15 phase;
- 16 (j) The original estimate, fund code, and fiscal year each phase is expected to
- 17 begin as enacted in the six (6) year road plan;
- 18 (k) The current estimate, fund code, and fiscal year each phase is expected to
- 19 begin;
- 20 (l) The status of funding for each phase;
- 21 (m) The date current information has been changed for each phase;
- 22 (n) The letting date for each phase;
- 23 (o) Total number of right-of-way parcels, deeds signed, suits filed, and right-of-
- 24 way entries completed;
- 25 (p) The date right-of-way plans are to be submitted to the central office in
- 26 Frankfort and the status of right-of-way plans;
- 27 (q) Total utility relocations to be completed and the actual number completed;

- 1 (r) The award date, the construction project code number, and the award amount
- 2 for the construction phase;
- 3 (s) The total number of contract change orders issued for each phase, the date of
- 4 the most recent change order, and the net change order amount for each phase;
- 5 (t) The name of the contractor, the contractor's vendor number in the Statewide
- 6 accounting~~[- and Reporting]~~ system~~[- (STARS)]~~, current contract amount, and
- 7 the current amount earned by the contractor;
- 8 (u) The estimated date for completion of the project, current percentage of work
- 9 completed based upon time, and the actual contract completion date;
- 10 (v) The department's engineer's estimate for the project; and
- 11 (w) Total expenditures by phase.

12 ~~(6)~~~~[(9)]~~ The department shall~~[- monthly]~~ transmit on a monthly basis, electronic data
 13 to the General Assembly through the Legislative Research Commission on the
 14 activity on all state resurfacing projects and all rural secondary projects that shall
 15 include as much applicable information as possible as identified in subsection
 16 ~~(5)~~~~[(8)]~~ of this section.

17 (7) In implementing the enacted biennial highway construction plan, the
 18 Transportation Cabinet may expend funds necessary to complete the projects
 19 authorized, amended only by variations necessitated by bid or unforeseen
 20 circumstances.

21 ~~(8)~~~~[(10)]~~ The department shall pursue digitizing all Kentucky roads on a geographic
 22 information system as funds are made available by the General Assembly. The
 23 digitized maps shall merge map layers and text layers to produce maps that display
 24 geographic information and textual information detailing the six (6) year road plan
 25 as enacted by the General Assembly.

26 ➔Section 21. KRS 176.440 is amended to read as follows:

27 ~~[(1)]~~ The state highway engineer shall provide a cost estimate for any project that a

1 member of the General Assembly desires to be considered for advancement or inclusion
 2 in the six (6) year road plan~~[if the request is received in writing by the secretary of the~~
 3 ~~Transportation Cabinet no later than November 1 of the year prior to the convening of the~~
 4 ~~even-numbered year regular session of the General Assembly. The cost estimate under~~
 5 ~~this subsection shall be provided prior to January 15 of the following year.~~

6 ~~(2) The six (6) year road plan presented to the General Assembly for approval and~~
 7 ~~funding as provided in KRS 45.245, the budget memorandum, and KRS 176.420~~
 8 ~~may be amended by the General Assembly. An amendment by the General~~
 9 ~~Assembly that results in the addition of a new project phase to the six (6) year road~~
 10 ~~plan shall use project phase costs supplied by the state highway engineer}.~~

11 ➔ Section 22. KRS 176.525 is amended to read as follows:

12 (1) During the construction phase of a new road construction project, potential
 13 industrial park sites identified during the design phase shall be used as waste sites
 14 by the department or the contractor who was awarded the project. Waste shall
 15 include, but not be limited, to nonhazardous nonsoluble construction material, steel,
 16 concrete, brick, asphalt, rock, dirt, or other fill material, but shall not include
 17 vegetation resulting from land clearing and grubbing, utility line maintenance,
 18 seasonal and storm-related cleanup, or any hazardous material or hazardous waste
 19 as defined in KRS 174.405.

20 (2) The purpose of using the site as a repository for waste is to reduce the cost
 21 associated with the road project and to level or otherwise create a site sufficient to
 22 support industrial activities. The department or the department's contractor shall use
 23 stabilization methods to reduce significant differential settling of the waste. The
 24 department or the department's contractor shall continually grade and compact the
 25 waste site, and design surface contours to minimize water run-off, until the site is
 26 stable, final grading is complete, and the site is ready for building to begin on an
 27 industrial park.

- 1 (3) If a waste site is owned by the state, the state shall deed in fee simple the area used
 2 as a waste site to an interested city, county, or other governmental agency upon
 3 completion of the highway project after the final pay estimate has been processed.
- 4 (4) The department shall consult~~[upon March 27, 1998, begin consulting]~~ with the
 5 appropriate elected officials affected by new routes proposed to be constructed in
 6 the~~[1999 2004 six (6) year highway plan and each enacted]~~ six (6) year
 7 road~~[highway]~~ plan~~[thereafter]~~. The department shall consult with the appropriate
 8 elected officials to identify waste sites along the proposed new routes that may be
 9 potential industrial park sites.

10 ➔Section 23. KRS 11.068 is amended to read as follows:

- 11 (1) There is created an agency of state government known as the Office of State Budget
 12 Director. The office shall be attached for administrative purposes to the Office of
 13 the Governor.
- 14 (2) The office shall include the following major organizational units:
- 15 (a) The Office of State Budget Director, headed by the state budget director. The
 16 state budget director shall be appointed by the Governor pursuant to KRS
 17 11.040 and shall serve, under direction of the Governor, as state budget
 18 director and secretary of the state planning committee. The office shall include
 19 such principal assistants and supporting personnel appointed pursuant to KRS
 20 Chapter 12 as may be necessary to carry out the functions of the office. The
 21 office shall have such duties, rights, and responsibilities as are necessary to
 22 perform, without being limited to, the following functions:
- 23 1. Functions relative to the preparation, administration, and evaluation of
 24 the executive budget as provided in KRS Chapters 45 and 48 and in
 25 other laws, including but not limited to, capital construction budgeting,
 26 evaluation of state programs, program monitoring, financial and policy
 27 analysis and issue review, and executive policy implementation and

1 compliance;

2 2. Continuous evaluation of statewide management and administrative
3 procedures and practices, including but not limited to, organizational
4 analysis and review, economic forecasting, technical assistance to state
5 agencies, forms control, and special analytic studies as directed by the
6 Governor; and

7 3. Staff planning functions of the state planning committee and evaluation
8 of statewide management and administrative practices and procedures.

9 (b) Governor's Office for Policy and Management, headed by the state budget
10 director~~[, who shall report to the Governor]~~. The state budget director shall
11 maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out
12 the functions of the office relating to state budgeting as provided in paragraph
13 (a) of this subsection and state planning as provided in KRS Chapter 147,
14 review of administrative regulations proposed by executive agencies prior to
15 filing pursuant to KRS Chapter 13A and such other duties as may be assigned
16 by the Governor.

17 (c) Governor's Office for Policy Research, headed by the state budget director.
18 The Governor's Office for Policy Research shall assist the state budget
19 director in providing policy research data, information, and analysis to the
20 Governor on public policy issues that impact the Commonwealth. The state
21 budget director shall identify and direct the research to be completed and
22 provided by the office. The state budget director shall maintain staff employed
23 in accordance with KRS Chapter 18A sufficient to carry out the functions of
24 the office.

25 (d) Governor's Office for Economic Analysis, headed by the state budget
26 director~~[, who shall report to the Governor]~~. The state budget director shall
27 maintain staff employed in accordance with KRS Chapter 18A sufficient to

1 carry out the functions of the office. The Governor's Office for Economic
 2 Analysis shall carry out the revenue estimating and economic analysis
 3 functions and responsibilities, including but not limited to the functions and
 4 responsibilities assigned to the Office of State Budget Director by KRS
 5 Chapter 48~~[48.115, 48.117, 48.120, 48.400, and 48.600]~~. The Governor's
 6 Office for Economic Analysis shall perform the tax administrative function of
 7 using tax data to provide the Department of Revenue with studies, projections,
 8 statistical analyses, and any other information that will assist the Department
 9 of Revenue in performing its tax administrative functions.

10 ➔ Section 24. KRS 11.250 is amended to read as follows:

- 11 (1) The Governor-elect or a delegate appointed by him or her shall be entitled to
 12 examine the budget recommendations~~[request]~~ of the executive branch of
 13 government, and the Finance and Administration Cabinet shall provide him or her
 14 with every practicable facility for reviewing and familiarizing himself or herself
 15 with the recommendations~~[its contents]~~. The Governor-elect shall be entitled to a
 16 seat in all hearings thereon. He or she shall be furnished a copy of the budget
 17 request of each executive branch budget unit. The budget director shall make
 18 available to the Governor-elect so much as he or she requests of the information
 19 upon which the executive branch~~[Governor's]~~ budget recommendations
 20 are~~[recommendation is]~~ based.
- 21 (2) After a review of the executive branch and Transportation Cabinet draft budget
 22 bills~~[bill]~~, the Governor-elect may prepare revisions and additions thereto. The
 23 budget director shall assist, upon request, in the preparation of such revisions and
 24 additions.
- 25 (3) The budget director shall have as many copies of the revised budget
 26 recommendations~~[recommendation]~~ of the executive branch of government printed
 27 as the Governor-elect requests.

1 ➔ Section 25. KRS 18A.1132 is amended to read as follows:

- 2 (1) Prior to a layoff of state employees in the executive branch~~[,]~~ required by a *budget*
 3 *reduction plan enacted pursuant to Section 6 of this Act*~~[projected or actual~~
 4 ~~reduction in tax receipts contemplated under the provisions of subsections (1) and~~
 5 ~~(6) of KRS 48.130]~~, each cabinet shall prepare a lay-off plan that complies with the
 6 provisions of KRS 18A.113 and this section.
- 7 (2) Each lay-off plan shall provide that a layoff of state employees shall occur only after
 8 all other cost saving measures are taken and have failed to alleviate the *revenue*
 9 *shortfall, as defined in Section 1 of this Act, of five percent (5%) or less*~~[projected~~
 10 ~~or actual deficit]~~. These measures shall be specified in the plan, in detail, and shall
 11 include but not be limited to:
- 12 (a) A hiring freeze of all types of appointments;
 - 13 (b) A reduction or delay of expenditures that would not prevent the provision of
 14 services required by law;
 - 15 (c) Consolidation of offices and job duties that would not prevent the provision of
 16 services required by law;
 - 17 (d) Transfer of funds as provided by the budget reduction plan enacted pursuant
 18 to KRS Chapter 48;
 - 19 (e) Transfer of funds appropriated for or allotted to vacant positions as provided
 20 by the budget reduction plan provided for by KRS 48.130, unless it is certified
 21 that the positions are essential and cannot be filled in the period during which
 22 layoffs are to occur by transfer of existing employees of the appointing
 23 authority;
 - 24 (f) The filling of vacancies and promotions from within the cabinet; and
 - 25 (g) Transfers of employees within the cabinet as provided by KRS 18A.1131(3)
 26 and (4).
- 27 (3) Each cabinet shall submit:

- 1 (a) Its lay-off plan; and
- 2 (b) A list of employees who would remain subject to layoff after the
- 3 implementation of cost-saving measures;
- 4 to the secretary of the Personnel Cabinet for review. Upon approval, the lay-off
- 5 plans shall be submitted to the Governor for approval.
- 6 (4) Upon approval of the plan by the Governor, the secretary shall attempt to transfer
- 7 employees as provided by KRS 18A.1131(4)(b). Employees who cannot be so
- 8 transferred may be laid off.
- 9 (5) If no position is available to an employee subject to layoff under the procedures
- 10 established by this section, the employee shall be notified in writing that he is to be
- 11 laid off effective fifteen (15) days after receipt of notice and of the rights and
- 12 privileges granted laid-off employees.
- 13 (6) When the hiring freeze is ended, laid-off employees shall be hired before any
- 14 applicant or eligible except laid-off employees already on such registers.
- 15 ➔Section 26. KRS 41.010 is amended to read as follows:
- 16 (1) As used in KRS 41.070, 41.110, 41.120, 41.130, 41.150, 41.160, 41.290, 41.300, or
- 17 41.990, unless the context requires otherwise, the terms "appropriation," "budget
- 18 unit," "disbursements," [~~"employee,"~~]"expenditures," "expenses," and "receipts"
- 19 have the meaning given them by KRS 43.010 and 48.010.
- 20 (2) As used in this chapter:
- 21 (a) "Bank" and "depository" include any qualified financial intermediary and
- 22 savings and loan associations chartered by the State of Kentucky or the United
- 23 States government designated to take custody of state funds on deposit, for
- 24 periods greater than overnight, with the intent to honor presentments against
- 25 those deposits;
- 26 (b) "Warrant" means a printed or electronic authorization from the Finance and
- 27 Administration Cabinet for the Treasurer to issue a check;

- 1 (c) "Form" or "report" means any written method of transporting data;
- 2 (d) "Writing" or "written" means letters, words, or numbers, or their equivalent,
- 3 set down by handwriting, typewriting, printing, photostating, photographing,
- 4 magnetic impulse, mechanical or electronic recording, or other form of data
- 5 compilation.

6 ➔Section 27. KRS 42.409 is amended to read as follows:

7 As used in KRS 42.410 and 45.760, unless the context requires otherwise:

- 8 (1) "State total personal income" means the measure of all income received by or on
- 9 behalf of persons in the Commonwealth, as most recently published in the Survey
- 10 of Current Business by the United States Department of Commerce, Bureau of
- 11 Economic Analysis.
- 12 (2) "Estimated state total personal income" means the personal income figure used by
- 13 the Governor's Office for Economic Analysis to generate final detailed revenue
- 14 estimates.
- 15 (3) "Total revenues" means revenues credited to the general fund and the road fund
- 16 consistent with the provisions of KRS 48.120, as well as any restricted agency fund
- 17 account from which debt service is expended.
- 18 (4) "Anticipated total revenues" means the official revenue~~[final]~~ estimates~~[—of~~
- 19 ~~revenues]~~, as provided for in KRS 48.120(2), projected for the general fund and the
- 20 road fund, as well as any restricted agency fund account from which debt service is
- 21 expended.
- 22 (5) "Available revenues" means revenues credited to the general fund and the road fund
- 23 consistent with the provisions of KRS 48.120, as well as any restricted agency fund
- 24 account from which debt service is expended, minus any statutorily dedicated
- 25 receipts of the respective funds.
- 26 (6) "Anticipated available revenues" means official revenue~~[final]~~ estimates~~[—of~~
- 27 ~~revenues]~~, as provided for in KRS 48.120(2), projected for the general fund and the

1 road fund, as well as any restricted agency fund account from which debt service is
2 expended, minus any statutorily dedicated receipts of the respective funds.

3 (7) "Total assessed value of property" means state total net assessed value of property
4 for taxes due, as obtained from the Department of Revenue.

5 (8) "Per capita" means per unit of population, where population figures are the most
6 recent available from the University of Louisville, Kentucky State Data Center.

7 (9) "Appropriation-supported debt service" means the amount of an appropriation
8 identified to be expended for debt service purposes in the executive budget
9 recommendation, and the amount of an appropriation expended for debt services in
10 a completed fiscal year.

11 (10) "Appropriation-supported debt" means the outstanding principal of bonds issued by
12 all state agencies and all individuals, agencies, authorities, boards, cabinets,
13 commissions, corporations, or other entities of, or representing the Commonwealth
14 with the authority to issue bonds, and for which debt service is appropriated by the
15 General Assembly.

16 (11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued
17 by all state agencies and all individuals, agencies, authorities, boards, cabinets,
18 commissions, corporations, or other entities of, or representing the Commonwealth
19 with the authority to issue bonds, and for which debt service is not appropriated by
20 the General Assembly.

21 (12) "Statutorily dedicated receipts" means revenues credited to the general fund and
22 road fund consistent with the provisions of KRS 48.120, as well as any restricted
23 agency fund account, which are required by an enacted statute to be used for a
24 specific purpose. Statutorily dedicated receipts include, but are not limited to, the
25 following:

26 (a) Receipts credited to the general fund which are subject to KRS 42.450 to
27 42.495, KRS 278.130 to 278.150, or KRS 350.139;

1 (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS
 2 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531,
 3 or KRS 186.535; and

4 (c) Receipts credited to a restricted agency fund account in accordance with any
 5 applicable statute.

6 (13) "True interest cost" means the bond yield according to issue price without a
 7 reduction for related administrative costs, and is the same figure as the arbitrage
 8 yield calculation described in the United States Tax Reform Act of 1986.

9 ➔ Section 28. KRS 42.500 is amended to read as follows:

10 (1) There shall be a State Investment Commission composed of the Governor who shall
 11 be chairman; the State Treasurer who shall be vice chairman and serve as chairman
 12 in the absence of the Governor; the secretary of the Finance and Administration
 13 Cabinet; and two (2) persons appointed by the Governor.

14 (2) The individuals appointed by the Governor shall be selected as follows: one (1) to
 15 be selected from a list of five (5) submitted to the Governor by the Kentucky
 16 Bankers Association, and one (1) to be selected from a list of five (5) submitted to
 17 the Governor by the Independent Community Bankers Association.

18 (3) The State Investment Commission shall meet at least quarterly to review investment
 19 performance and conduct other business. This provision shall not prohibit the
 20 commission from meeting more frequently as the need arises.

21 (4) The Governor, State Treasurer, and secretary of the Finance and Administration
 22 Cabinet shall each have the authority to designate, by an instrument in writing over
 23 his or her signature and filed with the secretary of the commission as a public record
 24 of the commission, an alternate with full authority to:

25 (a) Attend in the member's absence, for any reason, any properly convened
 26 meeting of the commission; and

27 (b) Participate in the consideration of, and vote upon, business and transactions of

1 the commission.

2 Each alternate shall be a person on the staff of the appointing member or in the
3 employ of the appointing member's state agency or department.

4 (5) Any designation of an alternate may, at the appointing member's direction:

5 (a) Be limited upon the face of the appointing instrument to be effective for only
6 a specific meeting or specified business;

7 (b) Be shown on the face of the appointing instrument to be a continuing
8 designation, for a period of no more than four (4) years, whenever the
9 appointing member is unable to attend; or

10 (c) Be revoked at any time by the appointing member in an instrument in writing,
11 over his or her signature, filed with the secretary of the commission as a
12 public record of the commission.

13 (6) Any person transacting business with, or materially affected by, the business of the
14 commission may accept and rely upon a joint certificate of the secretary of the
15 commission and any member of the commission concerning the designation of any
16 alternate, the time and scope of the designation, and, if it is of a continuing nature,
17 whether and when the designation has been revoked. The joint certificate shall be
18 made and delivered to the person requesting it within a reasonable time after it has
19 been requested in writing, with acceptable identification of the business or
20 transaction to which it refers and the requesting person's interest in the business or
21 transaction.

22 (7) Any three (3) persons who are members of the commission or alternates authorized
23 under subsections (4) and (5) of this section shall constitute a quorum and may, by
24 majority vote, transact any business of the commission. Any three (3) members of
25 the commission may call a meeting.

26 (8) The provisions of KRS 61.070 shall not apply to members of the commission.

27 (9) The commission shall have authority and may, if in its opinion the cash in the State

Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(b) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
 - a. Bank for Cooperatives;
 - b. Federal Intermediate Credit Banks; and
 - c. Federal Land Banks;
3. Federal Home Loan Banks;
4. Federal National Mortgage Association; and
5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

- 1 (e) Commercial paper rated in the highest category by a nationally recognized
2 rating agency;
- 3 (f) Securities issued by a state or local government, or any instrumentality or
4 agency thereof, in the United States, and rated in one (1) of the three (3)
5 highest categories by a nationally recognized rating agency;
- 6 (g) United States denominated corporate, Yankee, and Eurodollar securities,
7 excluding corporate stocks, issued by foreign and domestic issuers, including
8 sovereign and supranational governments, rated in one (1) of the three (3)
9 highest categories by a nationally recognized rating agency;
- 10 (h) Asset-backed securities rated in the highest category by a nationally
11 recognized rating agency; and
- 12 (i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds
13 available for investment as described in subsection (9) of this section, each of
14 which shall have the following characteristics:
 - 15 1. The mutual fund shall be an open-end diversified investment company
16 registered under Federal Investment Company Act of 1940, as amended;
 - 17 2. The management company of the investment company shall have been
18 in operation for at least five (5) years;
 - 19 3. At least ninety percent (90%) of the securities in the mutual fund shall
20 be eligible investments pursuant to this section; and
- 21 (j) State and local delinquent property tax claims which upon purchase shall
22 become certificates of delinquency secured by interests in real property not to
23 exceed twenty-five million dollars (\$25,000,000) in the aggregate. For any
24 certificates of delinquency that have been exonerated pursuant to KRS
25 132.220(5), the Department of Revenue shall offset the loss suffered by the
26 Finance and Administration Cabinet against subsequent local distributions to
27 the affected taxing districts as shown on the certificate of delinquency.

- 1 (10) The State Investment Commission shall promulgate administrative regulations for
2 the investment and reinvestment of state funds in shares of mutual funds, and the
3 regulations shall specify:
- 4 (a) The long and short term goals of any investment;
 - 5 (b) The specification of moneys to be invested;
 - 6 (c) The amount of funds which may be invested per instrument;
 - 7 (d) The qualifications of instruments; and
 - 8 (e) The acceptable maturity of investments.
- 9 (11) Any investment in obligations and securities pursuant to subsection (9) of this
10 section shall satisfy this section if these obligations are subject to repurchase
11 agreements, provided that delivery of these obligations is taken either directly or
12 through an authorized custodian.
- 13 (12) (a) Income earned from investments made pursuant to this section shall accrue to
14 the credit of the investment income account of the general fund, except that
15 interest from investments of excess cash in the road fund shall be credited to
16 the surplus account of the road fund and interest from investments of excess
17 cash in the game and fish fund shall be credited to the game and fish fund,
18 interest earned from investments of imprest cash funds and funds in the trust
19 and revolving fund for each state public university shall be credited to the
20 appropriate institutional account, and interest earned from the investment of
21 funds accumulated solely by means of contributions and gifts shall not be
22 diverted to any purpose other than that stipulated by the donor, when the
23 donor shall have designated the use to which the interest shall be placed.
- 24 (b) Except as otherwise provided by law, or by the obligations and covenants
25 contained in resolutions and trust indentures adopted or entered into for state
26 bond issues, interest earned from the investment of moneys appropriated to
27 the capital construction accounts, trust and agency accounts, and trust and

1 agency revolving accounts shall accrue to the capital construction investment
2 income account.

3 (c) If there is a revenue shortfall, as defined in Section 1 of this Act, of five
4 percent (5%) or less~~[the total general fund revenue receipts are less than the~~
5 ~~total revenue estimates for the general fund under KRS 48.120 and 48.130],~~
6 the secretary of the Finance and Administration Cabinet, upon the
7 recommendation of the state budget director, may direct the transfer of excess
8 unappropriated capital construction investment income to the general fund
9 investment income account. The amount of the transfer shall not exceed the
10 amount of the shortfall in general fund revenues.

11 (d) If the capital construction investment income is less than that amount
12 appropriated by the General Assembly, the secretary of the Finance and
13 Administration Cabinet may, upon recommendation of the state budget
14 director, direct the transfer of excess unappropriated general fund investment
15 income to the capital construction investment income account. The transfer of
16 general fund investment income revenues to the capital construction
17 investment income account shall be made only when the actual general fund
18 revenues are in excess of the enacted~~[revenue]~~ estimates under KRS 48.120
19 and shall be limited to the amount of the excess general fund revenues. The
20 amount of the transfer shall not exceed the amount of the shortfall in the
21 capital construction fund revenues.

22 (13) The authority granted by this section to the State Investment Commission shall not
23 extend to any funds that are specifically provided by law to be invested by some
24 other officer or agency of the state government.

25 (14) The authority granted by this section to the State Investment Commission shall only
26 be exercised pursuant to the administrative regulations mandated by KRS 42.525.

27 (15) Each member of the State Investment Commission, with the exception of the

1 Governor, shall post bond for his acts or omissions as a member thereof identical in
2 amount and kind to that posted by the State Treasurer.

3 ➔ Section 29. KRS 43.050 is amended to read as follows:

4 (1) The Auditor constitutes an agency independent of the administrative departments
5 enumerated in KRS 12.020, it being the policy of the General Assembly to provide
6 for the independent auditing of the accounts, financial transactions, and
7 performance of all spending agencies of the state through a disinterested auditor,
8 who is entirely independent of the state administration whose affairs he is called
9 upon to audit.

10 (2) The Auditor shall:

11 (a) Audit annually, and at such other times as may be deemed expedient, the
12 accounts of all state agencies, all private and semiprivate agencies receiving
13 state aid or having responsibility for the handling of any state funds, the
14 accounts, records, and transactions of the budget units, and the general
15 accounts of the state.

16 (b) Make a complete audit and verification of all moneys handled for the account
17 of the state government by local officials charged with the collection of fees or
18 other money for or on behalf of the state, when an audit is demanded in
19 writing by the Legislative Research Commission, the secretary of the Finance
20 and Administration Cabinet or the Governor, and may make an audit when it
21 is not so demanded.

22 (c) Examine periodically the performance, management, conduct, and condition
23 of all asylums, prisons, institutions for the mentally retarded, and
24 eleemosynary institutions; public works owned, operated, or partly owned by
25 the state, or in the conduct or management of which the state has any financial
26 interest or legal power; and state agencies. The examinations shall give special
27 attention to the faithful and economical application of any money appropriated

1 by the state to the institution, public works, or state agency examined, or of
 2 any money in which the state has an interest.

3 (d) Examine annually the management and condition of the offices of the Finance
 4 and Administration Cabinet, the State Treasurer, and the chief state school
 5 officer, to determine whether the laws regulating their duties are being fully
 6 complied with, and all money received by them for the state fully accounted
 7 for.

8 (e) Examine, at least biennially, the Finance and Administration Cabinet's
 9 compliance with KRS 56.800 to 56.823, ~~and~~ this section, and KRS 48.111~~,
 10 and KRS 48.190~~. Within sixty (60) days of the completion of each
 11 examination, the Auditor shall report his findings and recommendations to the
 12 Capital Projects and Bond Oversight Committee.

13 (f) Audit periodically all state revenue collections, and, if he finds that collections
 14 are not being satisfactorily made, report that fact to the authority whose duty it
 15 is to make the collections.

16 (g) Make special audits and investigations when required by the Governor.

17 (h) Investigate the means of accounting for, controlling, and insuring the safe
 18 custody of all property of the state, and verify the existence and condition of
 19 such property charged to, or held in the custody of any state agency.

20 (i) Audit the statements of financial condition and operations of the state
 21 government, ~~examine the estimates of resources available for appropriation
 22 and the estimates of receipts prepared for inclusion in each branch budget
 23 recommendation,~~ and certify in writing the results of the audit and
 24 examination with the comments he deems necessary for the information of the
 25 General Assembly~~, his certificate and comments to be included with the
 26 statements and estimates as presented in the branch budget recommendation~~.

27 (j) Report immediately in writing to the Governor, each member of the

1 Legislative Research Commission, and the secretary of the Finance and
 2 Administration Cabinet, any unauthorized, illegal, irregular, or unsafe
 3 handling or expenditure of state funds, or other improper practice of financial
 4 administration, or evidence that any such handling, expenditure, or practice is
 5 contemplated, and any obstruction of the Auditor or his agents during the
 6 conduct of any audit or investigation of a state agency.

7 (k) Assist the Legislative Research Commission at hearings and investigations
 8 conducted by it and cooperate with the Legislative Research Commission in
 9 the preparation of its reports to the General Assembly.

10 (l) Keep accounts showing the costs of his own operations and of each separate
 11 audit and investigation made by him, and the accounts he deems necessary to
 12 provide a record of warrants of the state outstanding as of the end of each
 13 calendar month.

14 (3) The Auditor may investigate and examine into the conduct of all state and county
 15 officers who are authorized to receive, collect, or disburse any money for the state,
 16 or who manage or control any property belonging to the state or in which the state is
 17 interested, or who make estimates or records that are used as a basis by any state
 18 agency in the disbursement of public funds.

19 (4) The Auditor shall not be responsible for the keeping of any accounts of the state,
 20 except accounts relating to his own operations, and records of outstanding warrants.
 21 He shall not be responsible for the collection of any money due the state, or for the
 22 handling or custody of any state funds or property except in the process of counting
 23 and verifying the amounts of the funds or property in the course of the audits
 24 provided for in this section.

25 ➔Section 30. KRS 45.0005 is amended to read as follows:

26 As used in this chapter:

27 (1) **"Branch budget bill" shall have the same meaning as in Section 1 of this Act.**

1 (2) "Document" means any physical embodiment of information or ideas, regardless of
 2 form or characteristic, including electronic versions thereof.

3 ~~(3)~~(2) "Warrant" means a printed or electronic authorization from the Finance and
 4 Administration Cabinet for the State Treasurer to issue a check.

5 ~~(4)~~(3) "Writing" or "written" means letters, words, or numbers, or their equivalent,
 6 set down by handwriting, typewriting, printing, photostating, photographing,
 7 magnetic impulse, mechanical or electronic recording, or other form of data
 8 compilation.

9 ➔ Section 31. KRS 45.760 is amended to read as follows:

10 The provisions of any other law notwithstanding:

11 ~~(1) The head of each of the three (3) branches of government shall include in the branch~~
 12 ~~budget recommendation and in the draft branch budget bill for his branch submitted~~
 13 ~~to each even-numbered year regular session of the General Assembly pursuant to~~
 14 ~~KRS 48.130, for the biennium period beginning July 1, 1994, and for each~~
 15 ~~biennium thereafter, a recommended state capital projects program and a~~
 16 ~~recommended program for the purchase of major items of equipment.~~

17 ~~(2) The recommended capital construction program shall include:~~

18 ~~(a) A complete list and summary description of each specific capital construction~~
 19 ~~project recommended for funding during the biennium; and~~

20 ~~(b) For each project:~~

21 ~~1. The agency and purpose for which it will be used;~~

22 ~~2. The justification for the project;~~

23 ~~3. Its estimated completion date;~~

24 ~~4. The total estimated cost of completing the project;~~

25 ~~5. The estimated cost of the project during the biennium;~~

26 ~~6. The recommended sources of funds for the entire project; and~~

27 ~~7. The dollar amounts recommended for appropriation and the dollar~~

1 amounts, listed by source, that are anticipated from every other source of
2 funds for the biennium.

3 ~~(3) All information required by subsection (2) of this section shall be included in each~~
4 ~~branch budget recommendation. Each branch budget bill shall contain only a~~
5 ~~complete list of the specific capital construction projects recommended for funding~~
6 ~~during the biennium and, for each project, the information specified in~~
7 ~~subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.~~

8 ~~(4) A report which details the effect of recommended new debt on the debt position of~~
9 ~~the Commonwealth shall be submitted at the same time the recommended capital~~
10 ~~program is submitted. Information shall be presented separately, and in total, for the~~
11 ~~general fund, the road fund, and for any affected restricted fund account.~~

12 ~~(5) Information in the report shall include, but not be limited to, the following:~~

13 ~~(a) Debt service on existing appropriation supported debt as a percent of~~
14 ~~anticipated total revenues;~~

15 ~~(b) Debt service on existing appropriation supported debt as a percent of~~
16 ~~anticipated available revenues;~~

17 ~~(c) The sum of debt service on existing appropriation supported debt and debt~~
18 ~~service on recommended new appropriation supported debt, as a percent of~~
19 ~~anticipated total revenues;~~

20 ~~(d) The sum of debt service on existing appropriation supported debt and debt~~
21 ~~service on recommended new appropriation supported debt, as a percent of~~
22 ~~anticipated available revenues;~~

23 ~~(e) The sum of debt service on existing appropriation supported debt and debt~~
24 ~~service on recommended new appropriation supported debt, as a percent of~~
25 ~~estimated state total personal income; and~~

26 ~~(f) The sum of existing appropriation supported debt and recommended new~~
27 ~~appropriation supported debt, as a percent of estimated state total personal~~

1 income.

2 ~~(6)}~~ During any biennium~~[beginning July 1, 1992, and during each biennium~~
 3 ~~thereafter,]~~ the amount allotted, from all sources, for expenditure on any project in
 4 the state capital construction program for that biennium shall not exceed the
 5 estimated cost of the project during that biennium, as shown in any branch budget
 6 bill, statutory budget memorandum, and biennial budget report enacted by the
 7 General Assembly, except as provided in this section and~~[,]~~ KRS 45.770~~[,]~~ and
 8 45.780.

9 ~~[(7) The recommended program for the purchase of major items of equipment,~~
 10 ~~submitted by the head of each of the three (3) branches of government, shall~~
 11 ~~include:~~

12 ~~(a) A complete list and summary description of each specific major item of~~
 13 ~~equipment recommended for purchase during the biennium; and~~

14 ~~(b) For each major item of equipment:~~

15 1. ~~The agency and purpose for which it will be used;~~

16 2. ~~The justification for the purchase;~~

17 3. ~~The estimated cost of the item, including ancillary expenses and any~~
 18 ~~expenses necessary to make the equipment functional and operational;~~

19 4. ~~The recommended sources of funds; and~~

20 5. ~~The dollar amounts recommended for appropriation and anticipated~~
 21 ~~from every other source of funds for the purchase.~~

22 ~~(8) All information required by subsection (5) of this section shall be included in the~~
 23 ~~executive branch budget recommendation. The branch budget bill for the executive~~
 24 ~~branch shall contain only a complete list of each specific item of major equipment~~
 25 ~~recommended for purchase during the biennium and, for each item, the information~~
 26 ~~specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.]~~

27 ~~(2)~~~~[(9)]~~ When the General Assembly disapproves a capital project or item of

1 equipment that was previously approved, it shall be eliminated as a capital project
 2 or major item of equipment in the Capital Projects Program. General fund moneys
 3 appropriated for that project or item of equipment but not allotted, and general fund
 4 moneys allotted but not expended to the project or equipment account, shall be
 5 transferred to the capital construction and equipment purchase contingency account
 6 in the capital construction fund. Agency or federal funds for a disapproved project
 7 or item, that have been appropriated but unallotted or allotted but unexpended, shall
 8 be returned to the appropriate agency fund. Road fund moneys for a disapproved
 9 project or item that have been appropriated but unallotted or allotted but
 10 unexpended, shall be returned to the Road Fund Surplus Account.

11 ~~(3)~~~~(10)~~ Capital projects and major items of equipment disapproved under subsection
 12 ~~(2)~~~~(9)~~ of this section shall be terminated.

13 ~~(4)~~~~(11)~~ During any biennium~~[beginning July 1, 1992, and during each biennium~~
 14 ~~thereafter]~~, the amount allotted from all sources for expenditure for the purchase of
 15 any major item of equipment shall not exceed the estimated cost of the item as
 16 shown in any branch budget bill, statutory budget memorandum, and biennial
 17 budget report enacted by the General Assembly and authorizing the purchase,
 18 except as provided in subsections ~~(5)~~~~(12)~~ and ~~(6)~~~~(13)~~ of this section and in KRS
 19 45.770 and 45.780.

20 ~~(5)~~~~(12)~~ A major item of equipment to be used for medical, scientific, or research
 21 purposes, excluding computer equipment and aircraft, may be authorized even
 22 though it is not specifically listed in any branch budget bill, statutory budget
 23 memorandum, and biennial budget report enacted for the current biennium, subject
 24 to the following conditions and procedures:

25 (a) Moneys specifically budgeted and appropriated by the General Assembly for
 26 another purpose shall not be reallotted for expenditure on the item; moneys
 27 utilized shall not jeopardize any existing program and shall not require the use

1 of any current general funds specifically dedicated to existing programs;

2 (b) Funds are available for the purchase and the method of financing the purchase
3 will not require an additional appropriation of state funds to acquire the item;
4 and

5 (c) The purchasing agency shall, within thirty (30) days after making the
6 purchase, report the purchase to the Capital Projects and Bond Oversight
7 Committee. The report shall include a description of the item, the purpose for
8 which it will be used, the necessity for the purchase, and the amount expended
9 for the purchase from each source of funds used.

10 ~~(6) [(13)]~~ Moneys from any source may be transferred to the allotment account of any
11 capital project authorized by the General Assembly under this section, subject to the
12 following conditions and procedures:

13 (a) The total amount transferred shall not exceed fifteen percent (15%) of the
14 amount authorized by the General Assembly unless:

- 15 1. The source of funds is private or federal; or
- 16 2. An unforeseen decision by a federal or state court or regulatory agency
17 requires the transfer.

18 (b) Moneys specifically budgeted and appropriated by the General Assembly for
19 another purpose shall not be allotted or reallocated for expenditure on the
20 capital project.

21 (c) Moneys utilized shall not jeopardize any existing program and shall not
22 require the use of any current general funds specifically dedicated to existing
23 programs.

24 (d) The relevant entity head, or his designee, shall submit the capital project to the
25 Capital Projects and Bond Oversight Committee at least fourteen (14) days
26 prior to the committee meeting. The submission shall include a written
27 certification to the committee that the transfer, in excess of fifteen percent

(15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or
2. Required by an unforeseen decision by a federal or state court or regulatory agency; and
3. Not allotted or reallocated from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and
4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

~~(7)~~~~(14)~~ A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:

- (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;
- (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds

1 specifically dedicated to existing programs; and

2 (c) The relevant entity head, or his designee, shall submit the project or major
3 item of equipment to the committee for review as provided by KRS 45.800.

4 ~~(8)~~~~(15)}~~ The capital construction and equipment purchase contingency fund may be
5 used to advance funds to projects authorized to be financed by bonds, to finance
6 feasibility studies for projects which may be contemplated for future funding, or to
7 audit the capital projects program when authorized by the General Assembly.

8 ~~(9)~~~~(16)}~~ On or before October 1, each branch~~[of the three (3) branches]~~ of government
9 shall submit to the committee the following information:

10 (a) A complete list and summary description of every capital construction project
11 and major item of equipment not completed as of June 30 of the prior fiscal
12 year; and

13 (b) For each project and major item of equipment, as of July 1, of the current
14 fiscal year:

- 15 1. The project phase;
- 16 2. The project account number, project name, and any other term employed
17 to identify the project or major item of equipment;
- 18 3. The available balance in the project or major item of equipment account,
19 and any sums considered available for that project or major item of
20 equipment;
- 21 4. A statement of the transfers of funds to or from the project or major item
22 of equipment account; and, any account to which transfers from each
23 project or major item of equipment has been made;
- 24 5. The year in which the project or major item of equipment was approved,
25 with specific reference to the legislation by which the project or item
26 was approved;
- 27 6. Total expenditure on the project or major item of equipment;

- 1 7. The current estimated completion cost, including the amount required
- 2 for annual inflation; and
- 3 8. A statement that additional funds for the completion of the project or
- 4 major item of equipment are or are not required; and, if required, why
- 5 sufficient funds for completion are not available; and
- 6 (c) The balance in the appropriated, but unallotted account; and the balance in any
- 7 account, however designated, that contains appropriated, but unallotted funds
- 8 for capital construction.

9 ~~(10)~~~~(17)~~ When the General Assembly authorizes a capital construction item in the
 10 capital construction section of a branch budget bill, the entity head charged with
 11 executing the branch budget shall construct the capital construction item according
 12 to the requirements set forth in the branch budget bill, statutory budget
 13 memorandum, supporting documentation considered by the General Assembly, and
 14 branch budget records. The entity head shall not deviate from these requirements
 15 with regard to:

- 16 (a) Purpose or location to the extent that the capital construction item no longer
- 17 meets the identified needs; or
- 18 (b) Configuration for reasons other than practical accommodation to the
- 19 construction site or specific program to be accommodated within that capital
- 20 construction item.

21 ➔Section 32. KRS 45.793 is amended to read as follows:

22 The Finance and Administration Cabinet and any institution that manages its own capital
 23 construction under KRS 164A.580 shall provide to the committee at its January, April,
 24 July, and October regular meetings a status report of any capital project, excluding items
 25 of equipment, not yet completed which received line item authorization by the Kentucky
 26 General Assembly or was authorized pursuant to KRS 45.760~~(7)~~~~(14)~~. The Capital
 27 Projects and Bond Oversight Committee shall prescribe data elements to be included in

1 the quarterly status reports. For each capital project, the status report shall include but not
2 be limited to the:

- 3 (1) Project title;
- 4 (2) County or counties in which the project is located;
- 5 (3) Current phase of the project;
- 6 (4) Estimated completion date of the project;
- 7 (5) Explanation of any delay or major change in the project, including deletion or
8 modification of project components; and
- 9 (6) Any other information that the committee requests.

10 ➔Section 33. KRS 45.800 is amended to read as follows:

11 (1) Except as otherwise provided in subsection (2)(b) of KRS 45.770, prior to
12 transferring funds from any source to the allotment account of a capital construction
13 project or major item of equipment, the relevant entity head, or his designee, shall
14 present to the Capital Projects and Bond Oversight Committee, at least fourteen
15 (14) days prior to the committee meeting, for its review, specification of the amount
16 of the proposed transfer, documentation of the necessity for the transfer, and, with
17 respect to capital construction projects, documentation of:

18 (a) The amount already expended on the project prior to and during the current
19 biennium; and

20 (b) Any alterations made or planned in the project since its consideration by the
21 General Assembly during the most recent even-numbered-year regular
22 session.

23 (2) Within thirty (30) days after submission to the committee of a proposed capital
24 construction and equipment purchase contingency account transfer, the committee
25 shall determine whether the amount of the proposed transfer is reasonable and
26 consistent with KRS 45.770, whether the proposed transfer is necessary, and
27 whether any alterations made or planned in a project materially change the project

1 as considered and authorized by the General Assembly. If the committee does not
2 approve a proposed transfer or other proposed action, the committee, unless the
3 Legislative Research Commission directs otherwise, shall promptly transmit its
4 findings and determination to the head of the entity that presented the proposal.

5 (3) If the committee does not approve a proposed transfer or other proposed action, the
6 transfer shall not be made nor the action taken unless the relevant entity head, or his
7 designee, shall:

8 (a) Revise the transfer or action to comply with the objections of the committee;

9 (b) Cancel the transfer or action; or

10 (c) Determine to make the transfer or take the action not approved by the
11 committee.

12 (4) The decision made by the relevant entity head, or his designee, under the preceding
13 subsection shall be communicated to the committee in writing within thirty (30)
14 days of the committee's not approving the proposed transfer or other proposed
15 action.

16 (5) The committee, unless the Legislative Research Commission directs otherwise,
17 shall maintain records of its findings and determinations and the relevant entity
18 head's, or his designee's, report of his action on each proposed transfer from the
19 capital construction and equipment purchase contingency account. If the committee
20 determines that the amount of a proposed transfer is not reasonable or is not
21 consistent with KRS 45.770, or that the transfer is not necessary, or if the
22 committee finds that any alteration in a project materially changes the project as
23 considered and approved by the General Assembly, the committee's determination
24 and the action of the secretary of the Finance and Administration Cabinet, or other
25 appropriate entity head, on the transfer shall be transmitted to the appropriate
26 interim joint committees of the Legislative Research Commission and to the
27 General Assembly when next convened.

1 (6) The committee, unless the Legislative Research Commission directs otherwise,
 2 shall maintain reports of purchases made under subsection (5)~~[(12)]~~ of KRS 45.760,
 3 reports of transfers made under KRS 45.760 to this section, reports of transfers
 4 made from the emergency repair, maintenance, and replacement account, and a
 5 record of any committee finding or recommendation relating to such purchases and
 6 transfers.

7 (7) The committee shall monitor the costs of state capital construction projects in
 8 comparison with the costs of construction for the private sector to determine
 9 whether the costs are comparable and, if not comparable, the reasons for any
 10 difference. The committee shall consider contractors' charges to the state, land
 11 acquisition costs, costs and availability of materials, cost and availability of labor,
 12 and laws, regulations, and purchasing procedures pertaining to state capital
 13 construction projects that are not applicable to construction for the private sector.
 14 The committee's findings and recommendations shall be transmitted to the
 15 appropriate interim joint committee of the Legislative Research Commission and to
 16 the General Assembly when convened.

17 ➔Section 34. KRS 45.818 is amended to read as follows:

18 The executive director of the Commonwealth Office of Technology shall provide to the
 19 Capital Projects and Bond Oversight Committee at its January, April, July, and October
 20 regular meetings a status report on any information technology system not yet completed
 21 which received line item authorization by the Kentucky General Assembly or was
 22 authorized pursuant to KRS 45.760(7)~~[(14)]~~, excluding systems of an institution as
 23 defined under KRS 164.001. The committee shall prescribe data elements to be included
 24 in the quarterly status reports.

25 ➔Section 35. KRS 56.440 is amended to read as follows:

26 As used in this chapter, unless the context otherwise requires:

27 (1) "Commission" means the State Property and Buildings Commission;

- 1 (2) "Real estate" includes lands together with improvements thereon and appurtenances
2 thereto;
- 3 (3) "Building" includes any structure or improvement upon real estate of a permanent
4 nature and additionally includes any sites, structures, equipment, machinery, or
5 devices for the purpose of establishing, developing, or furthering television or
6 related services in aid of education or in aid of any other proper public functions,
7 whether or not the same would otherwise be legally defined as buildings; but only
8 (except for industrial development projects) if used or to be used by the
9 Commonwealth of Kentucky or one (1) of its departments or agencies (not
10 including independent municipal corporations or political subdivisions);
- 11 (4) "Building project" includes the acquisition of any real estate and the acquisition,
12 construction, reconstruction, and structural maintenance of buildings, the
13 installation of utility services, including roads and sewers, and the purchase and
14 installation of equipment, facilities, and furnishings of a permanent nature for
15 buildings; the purchase and installation initially of movable equipment, furnishings,
16 and appurtenances necessary to make a building operable; and for television or
17 related purposes as referred to in subsection (3) of this section, for use by the state
18 government or one (1) of its departments or agencies, not including any independent
19 municipal corporation or political subdivision, or any other capital outlay program
20 authorized by any branch budget bill or other legislation;
- 21 (5) "Industrial development project" means and includes the acquisition of any real
22 estate and the construction, acquisition, and installation thereon and with respect
23 thereto of improvements and facilities necessary and useful for the improvement of
24 such real estate for conveyance to or lease to industrial entities to be used for
25 manufacturing, processing, or assembling purposes, including surveys, site tests and
26 inspections, subsurface site work, excavation, removal of structures, roadways,
27 cemeteries, and other surface obstructions, filling, grading and provision of

- 1 drainage, storm water detention, installation of utilities such as water, sewer,
2 sewage treatment, gas, electricity, communication, and other similar facilities, off-
3 site construction of utility extensions to the boundaries of such real estate,
4 construction and installation of buildings, including buildings to be used for worker
5 training and education, rail facilities, roads, sidewalks, curbs, and other
6 improvements to such real estate necessary to its manufacturing, processing, or
7 assembling use by industrial entities; provided that an industrial entity must have
8 agreed with the commission, prior to the financing of an industrial development
9 project, to develop, in conjunction with such industrial development project,
10 manufacturing, processing, or assembling facilities satisfactory to the commission;
- 11 (6) "Industrial entity" means any corporation, partnership, person, or other legal entity,
12 whether domestic or foreign, which will itself or through its subsidiaries and
13 affiliates construct and develop a manufacturing, processing, or assembling facility
14 on the site of an industrial development project financed pursuant to this chapter;
- 15 (7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount
16 of money which is equal to all tax revenues received by the Commonwealth, as
17 taxing entity, during such fiscal year in respect of an industrial development project
18 and improvements and equipment thereon and the products thereof, and activities
19 carried out by the occupants and users of such industrial development project,
20 minus an amount equal to all tax revenues received by the Commonwealth, as
21 taxing entity, in respect of the site of the industrial development project and the
22 same type of taxable properties and activities during the fiscal year immediately
23 preceding the fiscal year during which construction of the improvements undertaken
24 by an industrial entity as a result of the financing of such industrial development
25 project commenced. Incremental taxes shall include such tax revenues as state
26 corporate income taxes, state income taxes paid by employees of manufacturing,
27 processing, and assembling facilities developed on the site of an industrial

1 development project, state property taxes, state corporation license taxes, and state
 2 sales and use taxes, but shall not include any taxes levied specifically for
 3 educational purposes;

4 (8) "State agency" means any state administrative body, agency, department, or division
 5 as defined in KRS 42.005, or any board, commission, institution, or division
 6 exercising any function of the state but which is not an independent municipal
 7 corporation or political subdivision;

8 (9) "Cabinet" means the Finance and Administration Cabinet;

9 (10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite
 10 (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and
 11 actinolite;

12 (11) "Asbestos-containing material" means any material which contains more than one
 13 percent (1%) asbestos by weight;

14 (12) "Friable material" means any material applied onto ceilings, walls, structural
 15 members, piping, ductwork, or any other part of the building structure which, when
 16 dry, may be crumbled, pulverized, or reduced to powder by hand pressure;

17 (13) "Meeting" means all gatherings of every kind, including video teleconferences;

18 (14) "Video teleconference" means one (1) meeting, occurring in two (2) or more
 19 locations, where individuals can see and hear each other by means of video and
 20 audio equipment; ~~and~~

21 (15) "Writing" or "written" shall mean letters, words, or numbers, or their equivalent, set
 22 down by handwriting, typewriting, printing, photostating, photographing, magnetic
 23 impulse, mechanical or electronic recording, or other form of data compilation; **and**

24 **(16) "Branch budget" shall have the same meaning as in Section 1 of this Act.**

25 ➔Section 36. KRS 56.8605 is amended to read as follows:

26 As used in KRS 56.860 to 56.869:

27 (1) "Authorized project" means:

- 1 (a) Any project approved by the General Assembly and included in an enacted
2 budget; or
- 3 (b) Any project approved by the General Assembly that is certified by the
4 secretary of the Finance and Administration Cabinet in accordance with the
5 provisions of KRS 56.870, to be of a type that will independently produce
6 revenues or will be payable from receipts of federal transportation funds that
7 are projected by the commission to be sufficient to fully meet debt service,
8 issuance costs, reserve fund requirements, insurance premiums, or any other
9 expenditures necessary for financing so that no appropriation of state funds is
10 required;
- 11 (2) "Cabinet" means the Finance and Administration Cabinet;
- 12 (3) "Commercial paper" means obligations that by their terms mature not more than
13 three hundred sixty-six (366) days from the date of their issuance and that may be
14 refunded;
- 15 (4) "Commission" means the Kentucky Asset/Liability Commission;
- 16 (5) "Estimated revenues" means the official revenue estimates established
17 pursuant~~[detailed revenue estimate or revised revenue estimate as certified by the~~
18 ~~secretary of the Finance and Administration Cabinet pursuant]~~ to KRS~~[48.115 and]~~
19 48.120 on or before the dates on which tax and revenue anticipation notes are
20 awarded to the purchaser;
- 21 (6) "Financial agreements" means interest rate swaps, options, or other agreements
22 between two (2) parties to exchange or have the conditional right to exchange
23 interest rate exposure from fixed rate to variable rate or from variable rate to fixed
24 rate, or to provide other economic benefit to an issuance of notes or a portfolio of
25 notes, or to hedge the net interest margin of the Commonwealth;
- 26 (7) "Financing agreement" means an agreement between the commission and the
27 cabinet, or between the cabinet and a state agency, relating to the funding of

- 1 projects or items associated with projects as described in KRS 56.867(3), or a
 2 judgment against a state agency or the Commonwealth. The provisions of a
 3 financing agreement shall require either the cabinet to make payments to the
 4 commission relating to the commission's issuance of notes, or the state agency to
 5 make payments to the cabinet reimbursing the cabinet for its payments to the
 6 commission on the agency's behalf. The obligations of the cabinet or the state
 7 agency under a financing agreement shall be contingent upon appropriations by the
 8 General Assembly to the cabinet or to the agency for the payment of those
 9 obligations;
- 10 (8) "Fixed-rate obligations" means obligations on which the interest rate remains
 11 constant to maturity;
- 12 (9) "Funding notes" means notes issued under the provisions of KRS 56.860 to 56.869
 13 by the commission with a final maturity of not more than ten (10) years for the
 14 purpose of funding judgments;
- 15 (10) "Interest-sensitive assets" means tangible and intangible property held by the
 16 Commonwealth whose market value is dependent upon the level of interest rates;
- 17 (11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of
 18 the Commonwealth or a state agency;
- 19 (12) "Multimodal obligations" means obligations for which the time period for
 20 establishing the rate of interest may be selectively determined and altered;
- 21 (13) "Net interest margin" means the net income or expense associated with the
 22 difference between the Commonwealth's interest-sensitive assets and interest-
 23 sensitive liabilities;
- 24 (14) "Project notes" means notes issued under the provisions of KRS 56.860 to 56.869
 25 by the commission with a final maturity of not more than twenty (20) years for the
 26 purpose of funding authorized projects, which may include bond anticipation notes;
- 27 (15) "State agency" means any state administrative body, agency, department, or division

1 as defined in KRS 42.005, and set out in KRS Chapter 12, or any board,
 2 commission, institution, state university, or division exercising any function of the
 3 Commonwealth;

4 (16) "Tax and revenue anticipation notes" means notes that are issued under the
 5 provisions of KRS 56.860 to 56.869 by the commission with a final maturity that is
 6 no later than the last day of the fiscal year during which the tax and revenue
 7 anticipation notes are issued and that are issued in anticipation of estimated
 8 revenues to be received in that fiscal year; and

9 (17) "Variable-rate demand obligations" means obligations on which the rate of interest
 10 is set by reference to a predetermined index or formula, by auction, by an agent that,
 11 in the sole judgment of the commission, has the financial expertise to establish
 12 market interest rates, or by similar means.

13 ➔Section 37. KRS 131.585 is amended to read as follows:

14 There is hereby created within the Department of Revenue a state debt offset account,
 15 which will be subject to the provisions of the restricted fund group, as provided in KRS
 16 48.010(15)(f), and all funds collected under KRS 131.565(6) shall be credited
 17 thereto with only the expenses of the Department of Revenue related to development,
 18 implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This
 19 account shall not lapse.

20 ➔Section 38. KRS 148.810 is amended to read as follows:

21 (1) Funds in the park capital maintenance and renovation fund shall be used for the
 22 maintenance and renovation of park facilities. Maintenance shall include equipment
 23 purchases, used primarily in the maintenance of infrastructure and park facilities,
 24 and expenditures related to preventative maintenance of capital assets. Renovation
 25 includes the replacement of depreciable assets, including furnishings, and purchase
 26 of depreciable assets which enhance the quality of the parks.

27 (2) In no case shall the moneys from the fund be expended on:

- 1 (a) New capital project construction;
- 2 (b) Any new maintenance or renovation project estimated to cost four hundred
- 3 thousand dollars (\$400,000) or more in cash or other consideration; or
- 4 (c) Any new item of equipment estimated to cost one hundred thousand dollars
- 5 (\$100,000) or more in cash or other consideration.
- 6 (3) Moneys in the park capital maintenance and renovation fund may be used to
- 7 provide additional funding for any capital project, as defined in KRS 45.750, that
- 8 received line item authorization from the General Assembly in any executive branch
- 9 budget bill only if the state budget director or the director's designee submits the
- 10 proposed allocation to the Capital Projects and Bond Oversight Committee at least
- 11 fourteen (14) days prior to the committee meeting, in accordance with the
- 12 provisions of KRS 45.800.
- 13 (4) Notwithstanding the provisions of KRS 45.760~~(6)~~~~((13))~~, moneys in the park capital
- 14 maintenance and renovation fund shall not be used to provide additional funding for
- 15 any capital project, as defined in KRS 45.750, that received line item authorization
- 16 from the General Assembly in any executive branch budget bill, and that has
- 17 already received maximum additional funding as permitted by KRS 45.760~~(6)~~~~((13))~~
- 18 unless the state budget director or the director's designee submits the proposed
- 19 allocation to the Capital Projects and Bond Oversight Committee at least fourteen
- 20 (14) days prior to the committee meeting, in accordance with the provisions of KRS
- 21 45.800. In addition to the requirements of KRS 45.800, the submission shall include
- 22 a written certification that:
- 23 (a) Due to extraordinary circumstances, which shall be described, additional
- 24 funds are necessary for the project to be completed in a manner that will allow
- 25 it to serve its intended purpose; and
- 26 (b) The use of funds from the parks capital maintenance and renovation fund do
- 27 not unduly compromise the routine maintenance and renovation needs that the

1 fund was created to address.

2 (5) The commissioner shall, by September 1 of each year, report to the Legislative
3 Research Commission the receipts, expenditures, and any amounts carried forward
4 for the fiscal year ending on June 30 of that year from the fund established in KRS
5 148.800.

6 ➔Section 39. KRS 175.780 is amended to read as follows:

7 ~~[(1) In order]~~To provide for the construction, reconstruction, and relocation of
8 economic development road projects, the authority is hereby authorized and empowered,
9 subject to the limitations contained in ~~a[the biennial]~~ branch budget bill as defined in
10 Section 1 of this Act, under and pursuant to the terms and provisions of a written
11 agreement or agreements with the cabinet, to construct, reconstruct, relocate, finance, and
12 operate economic development road projects, to lease such projects to the cabinet, and to
13 issue economic development road revenue bonds or notes of the authority to finance such
14 projects. In the planning, construction, and financing of any economic development road
15 project, the authority and the cabinet shall, subject to the provisions of KRS 175.750 to
16 175.810, have and use all authority, procedures, and rights provided by the provisions of
17 KRS 175.410 to 175.690, inclusive.

18 ~~[(2) Subject to the limitations contained in the biennial branch budget bills, the turnpike~~
19 ~~authority is hereby authorized to issue revenue bonds or notes in the amount of six~~
20 ~~hundred million dollars (\$600,000,000), exclusive of any costs incurred in the~~
21 ~~issuance of the bond or notes, amounts necessary to fund a debt service reserve~~
22 ~~fund, or capitalized interest on the bonds or notes, or both, for the purpose of~~
23 ~~financing economic development road projects. The projects to be financed by these~~
24 ~~bonds or notes shall be the following projects limited to the costs established by this~~
25 ~~subsection:~~

26	Route	Total Project Cost
27	(a) US 60	\$ 39,250,000;

1 ~~(b) US 68 \$174,915,000;~~

2 ~~the projects authorized by this paragraph shall be for the segments of US 68 from~~
 3 ~~Bowling Green to Cadiz as submitted by the Transportation Cabinet in the 1990~~
 4 ~~Highway Construction Plan, except that funding shall be used for completion of the~~
 5 ~~southern corridor of the US 68 By pass in Christian County;~~

6 ~~(c) US 127 \$139,560,000;~~

7 ~~(d) US 119, Letcher County, Pine~~
 8 ~~Mountain Section \$ 5,500,000;~~

9 ~~(e) US 460 \$ 11,500,000;~~

10 ~~(f) AA HWY \$114,355,000;~~

11 ~~(g) US 25E \$ 52,950,000;~~

12 ~~(h) US 23 \$161,700,000.~~

13 ~~The authority may expend funds in excess of the total project cost, but shall not~~
 14 ~~exceed the total cost by more than ten percent (10%). If any route is completed at a~~
 15 ~~cost less than the amount specified by this subsection, the authority shall utilize the~~
 16 ~~remainder of the funds for the sole purpose of completion of projects as specified in~~
 17 ~~this subsection regardless of whether project costs exceed the ten percent (10%)~~
 18 ~~requirement.~~

19 ~~(3) The proceeds of the bonds issued under this authorization shall be used solely for~~
 20 ~~the payment of the cost of the economic development road projects for which these~~
 21 ~~bonds shall have been issued, as provided in subsection (2) of this section. The~~
 22 ~~authority shall provide this restriction in the proceedings and preliminary~~
 23 ~~documents authorizing the issuance of the bonds and in the trust indenture securing~~
 24 ~~the same. Any refunding of such bonds by the authority shall also provide such~~
 25 ~~restriction. Any proceeds of the bonds issued under this authorization remaining~~
 26 ~~after the completion of the projects for which these bonds shall have been issued~~
 27 ~~shall be transferred to the bond service account.~~

~~(4) (a) Prior to the issuance of the revenue bonds or notes authorized by this section, the turnpike authority shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this paragraph, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.~~

~~(b) The costs required to be furnished under the provisions of paragraph (a) of this subsection shall not include the payment of wages or expenses to full-time, permanent employees of the Commonwealth of Kentucky.]~~

➔ Section 40. KRS 177.250 is amended to read as follows:

- (1) For the purposes of KRS 177.220 to 177.310, the highway authorities of the state, county, or city may acquire private or public property and property rights for limited access facilities and service roads, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation in the same manner as such units are authorized by law to acquire property or property rights in connection with

highways and streets within their respective jurisdiction. Except as provided in subsection (2) of this section, all property rights acquired under the provisions of KRS 177.220 to 177.310 shall be in fee simple. In connection with the acquisition of property or property rights for any limited access facility or portion thereof, or service road in connection therewith, the state, county, or city highway authority may, in its discretion, acquire an entire lot, block, or tract of land, if by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

(2) A city, county, or urban-county independently, or any combination of a city, county, or urban-county that have entered into an interlocal cooperative agreement under KRS 65.210 to 65.300, may purchase options to acquire property or property rights on highways or streets within their respective jurisdictions if the property or property rights to be acquired are for highway projects included in:

- (a) The most recent twenty (20) year statewide transportation plan adopted by the Transportation Cabinet and submitted to the Federal Highway Administration;
- (b) The most recent six (6) year ~~road~~highway plan enacted by the General Assembly;
- (c) The most recent long-range transportation plan adopted by a metropolitan planning organization and submitted to the Transportation Cabinet; or
- (d) The most recent recommendations of an area development district transportation committee that have been submitted to the Transportation Cabinet.

(3) The secretary of the Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines governing the purchase of options under subsection (2) of this section.

➔Section 41. KRS 224.43-505 is amended to read as follows:

(1) A trust fund known as the Kentucky pride fund is hereby established in the State

1 Treasury to receive money collected from environmental remediation fees
2 established in KRS 224.43-500. The fund shall be used to accomplish the purposes
3 established in this section. Any money accruing to the fund in any fiscal year shall
4 not lapse but shall be carried forward to the next fiscal year. The fund may also
5 receive state appropriations, gifts, grants, and federal funds. All interest earned on
6 money in the fund shall be credited to the fund.

7 (2) The cabinet shall administer the Kentucky pride fund as provided by this section
8 and any administrative regulations promulgated pursuant thereto. Money from the
9 fund received by the cabinet shall be distributed as follows:

10 (a) Five million dollars (\$5,000,000) of the money deposited into the fund each
11 year shall be retained by the cabinet, subject to the following conditions:

12 1. The cabinet may use up to two and one-half million dollars (\$2,500,000)
13 of the money deposited into the fund as necessary for direct costs
14 associated with site identification, characterization, and corrective action
15 assessments of solid waste disposal sites and facilities that have ceased
16 accepting waste before July 1, 1992, including former permitted
17 municipal solid waste disposal facilities or abandoned solid waste
18 disposal sites or facilities. The cabinet shall prioritize the sites and
19 facilities based on risks to human health, safety, and the environment,
20 and develop an implementation plan for closure and remediation of
21 those sites and facilities. Funds may be utilized to begin design and
22 implementation of proper closure and corrective action for those sites
23 and facilities with unabated pending violations.

24 2. The cabinet shall suspend until July, 2006, enforcement activity
25 regarding landfill closure and remediation obligations against formerly
26 permitted municipal solid waste disposal facilities owned by a city or
27 county that ceased accepting waste prior to July 1, 1992, except as

1 necessary to abate an environmental emergency.

2 3. Two and one-half million dollars (\$2,500,000) per year shall be used to
3 pay debt service on bonds sold by the Kentucky Infrastructure Authority
4 in the amount of at least twenty-five million dollars (\$25,000,000), the
5 proceeds from which were deposited into the Kentucky pride fund
6 established in this section and utilized for undertaking closure and
7 corrective action at formerly permitted solid waste disposal facilities or
8 abandoned solid waste sites or facilities that ceased accepting waste
9 prior to July 1, 1992, which pose the most significant environmental or
10 human health risk. Moneys not appropriated for the identification and
11 characterization of orphaned or abandoned landfills, or debt service, may
12 be used for the elimination of illegal open dumps, direct costs associated
13 with the closure of orphaned landfills, recycling grants, household
14 hazardous waste grants, or additional debt service.

15 (b) The interest on all moneys deposited into the fund, including unused debt
16 services, shall be distributed annually in an amount not to exceed one million
17 dollars (\$1,000,000) to the Kentucky Environmental Education Council for
18 implementation of the environmental education center component of the
19 Environmental Education Master Plan.

20 (c) The remaining balance of the funds from the environmental remediation fee
21 established in KRS 224.43-500, plus any unspent interest revenues, shall be
22 utilized by the cabinet for grants to counties for the elimination of illegal open
23 dumps and to establish a recycling and household hazardous waste grants
24 program. Any county, waste management district, city, urban-county
25 government, or other political subdivision of the state shall be eligible to
26 apply for recycling and household hazardous waste grants under this program.

27 (d) Two and one-half million dollars (\$2,500,000) shall be transferred in each of

the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010~~(15)~~~~((13))~~(g) and two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed annually for anti-litter control programs with distributions to be made as follows:

1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;
2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;
3. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's population as a percentage of the total population of the Commonwealth at the time of distribution;
4. Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of that city's population to the

1 population of the county, to be used for the purpose of litter cleanup on
2 public roads within city boundaries;

3 5. Moneys received by counties and cities pursuant to this paragraph shall
4 be applied for by November 1 of the year preceding the grant
5 distribution and shall be used to meet obligations with respect to the
6 litter cleanup of public roads required by the provisions of KRS 224.43-
7 345; and

8 6. Litter abatement funding rejected or otherwise returned from the grant
9 recipients shall be applied to the following year's allotment for litter
10 abatement grants.

11 (3) Any county may apply for a grant for the elimination of illegal open dumps subject
12 to the following provisions:

13 (a) The cabinet first shall prioritize expenditures from this fund among those
14 counties with approved solid waste management plans in order to address
15 those illegal open dumps posing the most significant public health and
16 environmental risks; and

17 (b) The cabinet shall provide grants to counties for eliminating illegal open
18 dumps. To be eligible for grant funding, the applicant shall:

- 19 1. Establish an effective universal municipal solid waste collection service
20 that is available to all county residences and businesses;
- 21 2. Employ a solid waste coordinator with enforcement powers;
- 22 3. Remain in compliance with an approved solid waste management plan
23 under this chapter;
- 24 4. Enter into agreement with the cabinet to provide a twenty-five percent
25 (25%) match which may be in kind to the grant amount and comply with
26 the grant criteria, except that the grant match may be waived for illegal
27 dump cleanups projected to cost more than fifty thousand dollars

1 (\$50,000);

2 5. Agree to use all legal methods at their disposal to collect delinquent
3 solid waste collection fees; and

4 6. Establish a committee to be designated as the clean county committee,
5 composed of representatives from business, schools, agriculture,
6 homemakers, and other concerned citizens, to increase awareness and
7 develop education and enforcement strategies to keep the county free of
8 litter and illegal open dumps.

9 (4) The cabinet shall impose the following requirements for recycling and household
10 hazardous waste management grants to counties, waste management districts, cities,
11 urban-county governments, or other political subdivisions of the state:

12 (a) Each grantee shall provide a twenty-five percent (25%) match to the grant
13 amount which may be in kind and shall comply with the grant criteria;

14 (b) Each grantee shall demonstrate that the proposed project will remain
15 financially viable after grant funds have been expended;

16 (c) The grantee shall demonstrate that the service added by the project is needed
17 and would otherwise be unavailable within the proposed service area; and

18 (d) Projects that create opportunities for regional recycling or regional household
19 hazardous waste management shall be given priority.

20 (5) Counties that meet the requirements set out above in subsection (3) of this section
21 shall be provided the following incentives and rewards by the cabinet:

22 (a) Extra points when applying for Land and Water Conservation Fund grants,
23 National Recreation Trails Funds grants, and funding from the state-funded
24 Community Rivers and Streams Program; and

25 (b) Priority consideration for funds from the Division of Conservation State Cost
26 Share Program for dumps on farmland and the Waste Tire Trust Fund for tire
27 dumps.

1 (6) The cabinet shall be reimbursed for reasonable costs related to the implementation
 2 of the provisions of this section, not to exceed seven hundred fifty thousand dollars
 3 (\$750,000) annually.

4 ➔Section 42. KRS 446.010 is amended to read as follows:

5 As used in the statute laws of this state, unless the context requires otherwise:

- 6 (1) "Action" includes all proceedings in any court of this state;
- 7 (2) "Animal" includes every warm-blooded living creature except a human being;
- 8 (3) "Attorney" means attorney-at-law;
- 9 (4) "Bequeath" and "devise" mean the same thing;
- 10 (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal
 11 estate, or both;
- 12 (6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- 13 (7) "Company" may extend and be applied to any corporation, company, person,
 14 partnership, joint stock company, or association;
- 15 (8) "Corporation" may extend and be applied to any corporation, company, partnership,
 16 joint stock company, or association;
- 17 (9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable
 18 physical pain, suffering, or death is caused or permitted;
- 19 (10) "Directors," when applied to corporations, includes managers or trustees;
- 20 (11) "Domestic," when applied to corporations, partnerships, limited partnerships, or
 21 limited liability companies, means all those incorporated or formed by authority of
 22 this state;
- 23 (12) "Domestic animal" means any animal converted to domestic habitat;
- 24 (13) "Federal" refers to the United States;
- 25 (14) "Foreign," when applied to corporations, partnerships, limited partnerships, or
 26 limited liability companies, includes all those incorporated or formed by authority
 27 of any other state;

- 1 (15) "Generally accepted accounting principles" are those uniform minimum standards
2 of and guidelines to financial accounting and reporting as adopted by the National
3 Council on Governmental Accounting, under the auspices of the Municipal Finance
4 Officers Association and by the Financial Accounting Standards Board, under the
5 auspices of the American Institute of Certified Public Accountants;
- 6 (16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals,"
7 means any nonprofit corporation, organized under the laws of this state and having
8 as its primary purpose the prevention of cruelty to animals;
- 9 (17) "Issue," as applied to the descent of real estate, includes all the lawful lineal
10 descendants of the ancestors;
- 11 (18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights
12 thereto and interest therein, other than a chattel interest;
- 13 (19) "Legatee" and "devisee" convey the same idea;
- 14 (20) "May" is permissive;
- 15 (21) "Month" means calendar month;
- 16 (22) "Oath" includes "affirmation" in all cases in which an affirmation may be
17 substituted for an oath;
- 18 (23) "Owner" when applied to any animal, means any person having a property interest
19 in such animal;
- 20 (24) "Partnership" includes both general and limited partnerships;
- 21 (25) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and
22 urban-county government correctional officers, marshals, policemen, and other
23 persons with similar authority to make arrests;
- 24 (26) "Penitentiary" includes all of the state penal institutions except the houses of
25 reform;
- 26 (27) "Person" may extend and be applied to bodies-politic and corporate, societies,
27 communities, the public generally, individuals, partnerships, registered limited

- 1 liability partnerships, joint stock companies, and limited liability companies;
- 2 (28) "Personal estate" includes chattels, real and other estate that passes to the personal
3 representative upon the owner dying intestate;
- 4 (29) "Regular election" means the election in even-numbered years at which members of
5 Congress are elected and the election in odd-numbered years at which state officers
6 are elected;
- 7 (30) "Shall" is mandatory;
- 8 (31) "State" when applied to a part of the United States, includes territories, outlying
9 possessions, and the District of Columbia; "any other state" includes any state,
10 territory, outlying possession, the District of Columbia, and any foreign government
11 or country;
- 12 (32) "State funds" or "public funds" means sums actually received in cash or negotiable
13 instruments from all sources unless otherwise described by any state agency, state-
14 owned corporation, university, department, cabinet, fiduciary for the benefit of any
15 form of state organization, authority, board, bureau, interstate compact,
16 commission, committee, conference, council, office, or any other form of
17 organization whether or not the money has ever been paid into the Treasury and
18 whether or not the money is still in the Treasury if the money is controlled by any
19 form of state organization, except for those funds the management of which is to be
20 reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605,
21 and 42.615;
- 22 (33) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted
23 for an oath;
- 24 (34) "United States" includes territories, outlying possessions, and the District of
25 Columbia;
- 26 (35) "Vacancy in office," or any equivalent phrase, means such as exists when there is an
27 unexpired part of a term of office without a lawful incumbent therein, or when the

1 person elected or appointed to an office fails to qualify according to law, or when
 2 there has been no election to fill the office at the time appointed by law; it applies
 3 whether the vacancy is occasioned by death, resignation, removal from the state,
 4 county or district, or otherwise;

5 (36) "Violate" includes failure to comply with;

6 (37) "Will" includes codicils; "last will" means last will and testament;

7 (38) "Year" means calendar year;

8 (39) "City" includes town;

9 (40) Appropriation-related terms are defined as follows:

10 (a) "Appropriation" means an authorization by the General Assembly to expend,
 11 from public funds, a sum of money not in excess of the sum specified, for the
 12 purposes specified in the authorization and under the procedure prescribed in
 13 KRS Chapter 48;

14 (b) "Appropriation provision" means a section of any enactment by the General
 15 Assembly which is not provided for by KRS Chapter 48 and which authorizes
 16 the expenditure of public funds other than by a general appropriation bill;

17 (c) "General appropriation bill" means an enactment by the General Assembly
 18 that authorizes the expenditure of public funds in a~~[an executive, judicial, or~~
 19 ~~legislative]~~ branch budget bill as provided for in KRS Chapter 48;

20 (41) "Mediation" means a nonadversarial process in which a neutral third party
 21 encourages and helps disputing parties reach a mutually acceptable agreement.
 22 Recommendations by mediators are not binding on the parties unless the parties
 23 enter into a settlement agreement incorporating the recommendations;~~[and]~~

24 (42) "Biennium" means the two (2) year period commencing on July 1 in each even-
 25 numbered year and ending on June 30 in the ensuing even-numbered year; and

26 (43) "Branch budget bill" or "branch budget" means an enactment by the General
 27 Assembly which provides appropriations and establishes fiscal policies and

conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet.

➔Section 43. KRS 48.111 is amended to read as follows:

(1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).

(2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;
2. The purpose and justification for the lease;
3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;

4. a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and

- b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;

5. The estimated cost of the lease; and

1 6. The recommended sources of funds.

2 (3) All information required by subsection (2) of this section shall be included in the
3 executive branch budget recommendation. The branch budget bill for the executive
4 branch shall contain only the information specified in subparagraphs 1. and 2. of
5 subsection (2)(b) of this section.

6 (4) Except as provided in subsection (5) of this section, no lease with an annual rental
7 cost which will exceed two hundred thousand dollars (\$200,000) shall be executed
8 unless the lease has been identified and included in the branch budget bill. The
9 branch budget bill for the executive branch shall authorize the expenditure by the
10 budget unit that will occupy the premises.

11 (5) A lease with an annual rental cost exceeding two hundred thousand dollars
12 (\$200,000) may be authorized even though it is not specifically listed in the biennial
13 budget report and branch budget bill, subject to the following conditions and
14 procedures:

15 (a) A lease is awarded as the result of the consolidation of leases in which case, in
16 addition to subsection (6) of this section, the provisions of KRS 56.803 and
17 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or

18 (b) A lease is awarded as the result of an agency occupying substantially less
19 space than it should, under the standards for space set by the Department for
20 Facilities Management, in which case, in addition to subsection (6) of this
21 section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and
22 56.823(3) shall apply, as appropriate. The space allocated under the new lease
23 shall not exceed the space which should be allocated pursuant to the standards
24 for space; or

25 (c) A lease with an annual rental cost of less than two hundred thousand dollars
26 (\$200,000) is renewed or replaced for an annual rental cost that exceeds two
27 hundred thousand dollars (\$200,000), but only if that request and subsequent

1 renewal or replacement lease is:

- 2 1. From the same state agency lessee whose initial lease was under two
- 3 hundred thousand dollars (\$200,000);
- 4 2. For the same or substantially the same square footage as the initial lease
- 5 that was under two hundred thousand dollars (\$200,000);
- 6 3. The result of the competitive leasing process authorized by KRS 56.803;
- 7 4. For an annual lease payment of less than two hundred and fifty thousand
- 8 dollars (\$250,000); and
- 9 5. Effective only until June 30 of the next even-numbered year unless
- 10 authorized in the biennial budget report and branch budget bill; or

11 (d) A lease is awarded as the result of an emergency in which case the provisions
12 of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or

13 (e) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal
14 or private funds; and

15 2. Money specifically budgeted and appropriated by the General Assembly
16 for another purpose shall not be allotted or reallocated for expenditure on
17 the lease. Money utilized shall not jeopardize any existing program and
18 shall not require the use of current general funds specifically dedicated
19 to existing programs; and

20 3. The Finance and Administration Cabinet shall comply with the
21 requirements of subsection (6) of this section.

22 (6) (a) No later than five (5) business days after an advertisement for lease proposals
23 pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet
24 shall provide the Capital Projects and Bond Oversight Committee with a copy
25 of the advertisement and shall state in writing to the committee that the copy
26 is being provided in compliance with this paragraph.

27 (b) Prior to final authorization of a lease pursuant to paragraph (e) of subsection

(5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which space will be leased;
2. The purpose and justification for the lease;
3. The estimated cost of the lease;
4. The source of funds; and
5. Whether the requirements of paragraph (e) of subsection (5) of this section have been met.

(c) Within thirty (30) days after the report required in paragraph (b) of this subsection has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.

(d) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

1. Revise the proposed lease authorization to comply with the objection of the committee; or
2. Cancel the proposed lease authorization; or
3. Determine to proceed with the proposed lease authorization disapproved by the committee.

(e) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the

1 committee disapproves a proposed lease authorization, the Legislative
 2 Research Commission shall transmit the committee's disapproval and the
 3 cabinet's action on the disapproval to the appropriate interim joint committee
 4 of the Legislative Research Commission and to the General Assembly when
 5 next convened in an even-numbered-year regular session.

6 (g) If after committee review a lease is authorized, the lease shall be awarded
 7 pursuant to the provisions of KRS 56.800 to 56.823,~~[-and]~~ this section, and
 8 KRS 43.050~~[-and KRS 48.190]~~ and shall be subsequently reviewed pursuant
 9 to the appropriate subsection of KRS 56.823.

10 ➔Section 44. KRS 56.800 is amended to read as follows:

11 The Finance and Administration Cabinet shall be responsible for the lease of all real
 12 property rentals required for use by all departments, agencies, and administrative bodies
 13 of the state government listed in KRS Chapter 12 that do not have statutory authority to
 14 lease property, and no lease of real property shall be binding against the Commonwealth
 15 or any agency unless made and entered into as provided in KRS 56.800 to 56.823,~~[-and~~
 16 ~~KRS]~~ 43.050, and 48.111~~[-and 48.190]~~.

17 ➔Section 45. KRS 56.803 is amended to read as follows:

18 (1) When an agency determines that it will need office or other space, the agency shall
 19 submit a request for the acquisition of the additional space to the Department for
 20 Facilities Management in the Finance and Administration Cabinet. Except in the
 21 case of an emergency as described at KRS 56.805(3), an agency shall submit its
 22 space request in writing to the department. In the case of an emergency, an agency
 23 shall communicate its space needs to the department pursuant to KRS 56.805(3) as
 24 soon as an agency knows that it will need the space. If the commissioner of the
 25 Department for Facilities Management determines that insufficient space has been
 26 allocated to the agency making the request and that it is appropriate to lease
 27 additional space for the agency making the request, the commissioner shall acquire

1 the space required by lease as provided by KRS 56.800 to 56.823,~~[and KRS]~~
 2 43.050, and ~~[48.111, and 48.190]~~.

3 (2) The Department for Facilities Management shall review each agency space request
 4 to determine whether space suitable to meet the agency's reasonable needs may be
 5 available in a state-owned or occupied building. If it is determined that there is
 6 suitable space available in a state-owned or occupied building, the commissioner
 7 shall notify the agency. A copy of the notice shall be kept on file.

8 (3) If it is determined that there is no suitable space available in a state-owned or
 9 occupied building, the department shall comply with the procedures set forth in this
 10 section in the leasing of space, except as otherwise provided in KRS 56.800 to
 11 56.823,~~[and KRS]~~ 43.050, and 48.111~~[, and 48.190]~~.

12 (4) The department shall draw up general requirement specifications for the space
 13 required. These general requirement specifications shall not be changed except, at
 14 the discretion of the commissioner, when the lease process is initiated again
 15 pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph
 16 (b) of subsection (16) of this section. The general requirement specifications shall
 17 be kept on file.

18 (5) (a) In soliciting the interest of lessors who have property to let in a county where
 19 space is sought, the department shall give adequate public notice to reasonably
 20 inform persons having property to let within the county of the type of space
 21 required, the general location of the property, and the number of square feet
 22 needed. The notice may include posting on the Internet or newspaper
 23 advertisements. Each notice shall contain general information concerning the
 24 agency requirements for the space sought and shall state the last time, date,
 25 and place that written responses shall be received. When it is anticipated that a
 26 lease may be negotiated containing deviations or variations from the terms and
 27 conditions of the state standard lease form prescribed by the Division of Real

1 Properties, within the department, any deviations or variations shall be stated
2 in the notice.

3 (b) The Department for Facilities Management may use any means available to
4 notify landlords that a notice has been given.

5 (6) A property owner, or his representative, shall respond in writing on or before the
6 time and date designated in the notice and shall state in the writing the type and
7 location of the property, the name and address of the property owner, and the date of
8 availability of the property. The department shall deal only with individuals who
9 have submitted written responses on or before the time and date designated in the
10 notice.

11 (7) All written responses received on or before the time and date designated shall be
12 opened or downloaded at the same time, publicly read or posted, and kept on file by
13 the department.

14 (8) Within ten (10) business days of the opening of written responses, the department
15 shall transmit general requirement specifications to each person who submitted a
16 written response on or before the time and date designated. The same general
17 requirement specifications shall be transmitted to each person.

18 (9) After the general requirement specifications have been transmitted, except as
19 provided in paragraph (a) of subsection (13) of this section, the commissioner, and
20 department employees under his supervision, may negotiate with persons who
21 submitted written responses on or before the time and date designated. If in the
22 course of negotiations, a person proposes terms and conditions of lease different
23 from those contained in the state standard lease form which are determined to be in
24 the Commonwealth's best interest to accept, but no mention of the acceptability
25 thereof has been made in the notice given pursuant to subsection (5) of this section,
26 all other persons who submitted written responses on or before the time and date
27 designated shall be notified of the terms and conditions and shall be allowed to

1 incorporate the terms and conditions in written proposals when submitted pursuant
2 to subsection (12) of this section. A copy of each notice shall be kept on file.

3 (10) The department shall inspect each space proposed to be leased to determine its
4 suitability to the reasonable needs of the agency for whose use the property is
5 sought. The owner of the property, or the owner's representative, shall provide
6 access to the property for the inspection. A report of the findings about each
7 property inspected shall be submitted on a site evaluation form to the commissioner
8 of the department. Completed site evaluation forms shall be kept on file.

9 (11) After the commissioner has reviewed the completed site evaluation forms, the
10 commissioner shall inform each owner of property, or his representative, of the
11 steps necessary to bring the property up to general and specific requirement
12 specifications. The commissioner shall also invite each person to submit a written
13 proposal on a form created by the Department for Facilities Management. A copy of
14 the form shall be provided to each bidder. A written proposal shall constitute a best
15 and final offer. The department shall not consider a written proposal unless it is
16 submitted on a department form on or before the time and date designated.

17 (12) All written proposals submitted on or before the time and date designated shall be
18 opened at the same time, publicly identified by the name of the property owner and
19 the location of the property, and kept on file.

20 (13) Except pursuant to paragraph (b) of subsection (15) of this section, when the
21 requirements of paragraph (a) of this subsection shall not apply, from the time that
22 written proposals are opened until the awarding of a lease, the department:

23 (a) Shall not negotiate or agree to changes in the terms of written proposals
24 except to correct technical errors;

25 (b) Shall log in all contacts between department employees and any person with
26 an interest in the awarding of a lease. The log shall state the time, date, place,
27 and a summary of the substance of each contact. Each log entry shall be

1 signed by the department employee who was contacted. After the lease is
2 awarded, the log shall be kept as a department record.

3 (14) (a) The commissioner shall assess the proposals, taking into account factors
4 including, but not limited to: consultation with the head of the agency for
5 whose use the space is sought; the location and accessibility of the property to
6 the public; its condition and state of repair; its conformity with the
7 requirements of occupational health and safety regulations; its conformity
8 with applicable state fire, health, safety and sanitation requirements; the
9 proposed rental rates; utility and janitorial costs; agency moving costs; and
10 whether the property proposed is in substantial conformity with the general
11 and specific requirement specifications.

12 (b) The commissioner shall give preference to properties in areas which have
13 received, within the previous five (5) year period, state community
14 development funds for revitalization if properties are offered at a competitive
15 rate and meet the provisions of paragraph (a) of this subsection.

16 (15) The commissioner, relying exclusively on his assessment made pursuant to
17 subsection (14) of this section, shall:

18 (a) Choose the best proposal in the interest of the Commonwealth;

19 (b) Be permitted to negotiate with a potential lessor if he was the only responsive
20 and responsible potential lessor who submitted a proposal; or

21 (c) Except as provided in paragraph (b) of this subsection, reject all proposals
22 when none is in the Commonwealth's best interest to accept as assessed
23 according to the factors stated in subsection (14) of this section and may, at
24 his discretion, initiate the lease process again.

25 (16) (a) The commissioner shall award or decline to award a lease to the potential
26 lessor who submitted the best proposal pursuant to paragraph (a) of subsection
27 (15) of this section or who negotiated with the commissioner pursuant to

1 paragraph (b) of subsection (15) of this section. However, the commissioner
2 shall not award a lease to a potential lessor who negotiated with the
3 commissioner pursuant to paragraph (b) of subsection (15) of this section if
4 that potential lessor's proposal after negotiations was not in the
5 Commonwealth's best interest to accept as assessed according to the factors
6 stated in subsection (14) of this section, and the commissioner shall not award
7 a lease to a person other than a potential lessor prescribed in this paragraph.

8 (b) If the commissioner declines to award a lease, he may, at his discretion,
9 initiate the lease process again.

10 (17) The commissioner shall put in writing the justifications for his decisions made
11 pursuant to subsections (15) and (16) of this section. This writing shall be kept on
12 file.

13 (18) The commissioner, all department employees under the commissioner's supervision
14 who performed a site evaluation or negotiated a lease agreement under this section,
15 the head of the agency that will occupy the leased space, and all agency employees
16 who were directly involved with a site evaluation or lease negotiations shall sign
17 separate certificates, devised by the commissioner, which shall provide the
18 signatory with the option of certifying that, to the best of his knowledge, he is either
19 aware or unaware of circumstances which may constitute a violation of KRS 56.800
20 to 56.823. The Department for Facilities Management shall keep the certificates on
21 file and shall inform state agencies of the legal requirements concerning lease
22 certification on an annual basis.

23 (19) The department shall notify each person who submitted a written response on or
24 before the time and date designated in the public notice pursuant to subsection (6)
25 of this section, but who was not awarded the lease, of the selected property to be
26 leased, and that the person has a right to examine the leasing records relevant to the
27 lease that was awarded. If the Capital Projects and Bond Oversight Committee,

1 pursuant to KRS 56.823(2), will review the awarding of a lease, each notice shall
 2 state that fact. A copy of each notice shall be kept on file.

3 (20) Prior to finalization of the lease, the department or the leasing agency shall inspect
 4 the property to ensure that any changes described in subsection (11) of this section
 5 necessary to bring the property up to specifications have been completed in a
 6 manner satisfactory to the agency or department. At the conclusion of the
 7 inspection, the owner shall be advised in writing by the department either that the
 8 property is approved for occupancy and the lease may be finalized, or that there
 9 remain changes to be completed or corrected before the lease may be finalized.

10 ➔Section 46. KRS 56.814 is amended to read as follows:

11 (1) No officer or employee of any state agency shall engage in any act or make any
 12 representation or commitment to any person relative to the lease of any real property
 13 by the state without specific written authorization from and approval by the Finance
 14 and Administration Cabinet and neither the state nor the department shall be bound
 15 by the act, representation, or commitment unless so authorized and approved.

16 (2) (a) No officer or employee of any state agency shall disclose to any person or firm
 17 who might reasonably be expected to submit a proposal, any approved plans
 18 by the department for the lease of real property for which public notice is
 19 required under KRS 56.800 to 56.823, ~~and KRS~~ 43.050, and 48.111~~, and~~
 20 48.190} prior to the public notice. Discussions of approved leasing plans may
 21 be held after public notice with persons interested in submitting a proposal
 22 pertaining to the space requirements.

23 (b) If all of the proposals, submitted in response to the advertisement referred to
 24 in paragraph (a) of this subsection, are rejected, then the requirements of
 25 paragraph (a) shall govern disclosure before, and discussions after, new
 26 advertisements are placed.

27 ➔Section 47. KRS 56.822 is amended to read as follows:

1 Judicial review of the action of the Finance and Administration Cabinet and its secretary
 2 and the Department for Facilities Management and its commissioner in the award, or
 3 modification, of a lease pursuant to KRS 56.800 to 56.823,~~and KRS~~ 43.050, and
 4 48.111~~, and 48.190~~ shall be limited to determining whether a lease or modification to a
 5 lease was procured by fraud or was awarded arbitrarily or capriciously.

6 ➔Section 48. KRS 56.823 is amended to read as follows:

- 7 (1) The Finance and Administration Cabinet shall report information on leases and
 8 lease modifications awarded pursuant to KRS 56.800 to 56.823,~~and KRS~~ 43.050,
 9 and 48.111~~, and 48.190~~ to the Capital Projects and Bond Oversight Committee as
 10 required by this section.
- 11 (2) Any lease awarded pursuant to KRS 56.803, including all lease renewals except
 12 automatic renewals permitted under KRS 56.806(1), for which the annual rental
 13 cost will exceed one hundred thousand dollars (\$100,000) shall be reported to the
 14 Capital Projects and Bond Oversight Committee after a proposed lease is arrived at
 15 but before execution. The report shall include:
- 16 (a) The name of the agency that will occupy the premises;
 - 17 (b) The name of the lessor;
 - 18 (c) The terms of the lease;
 - 19 (d) The reason for the lease;
 - 20 (e) A copy of the writing required by KRS 56.803(17);
 - 21 (f) A statement as to whether the Finance and Administration Cabinet complied
 - 22 with the requirements established in KRS 56.800 to 56.823,~~and KRS~~
 - 23 43.050, 48.111, and 48.190. If the cabinet has not complied with any
 - 24 requirement, the cabinet shall explain why;
 - 25 (g) An explanation of why the Finance and Administration Cabinet chose this
 - 26 lessor over his competition; and
 - 27 (h) A cost comparison between the cost per square foot of the leased space and

1 the average cost per square foot of comparable space the state leases in the
 2 same county. If there are factors which make the comparison misleading, the
 3 cabinet shall inform the committee of these factors.

4 (3) Any lease that incorporates a lease-purchase pursuant to KRS 56.806(5) shall be
 5 reported to the Capital Projects and Bond Oversight Committee after a proposed
 6 lease is arrived at but before execution.

7 (a) If a lease is awarded pursuant to KRS 56.803, the report shall include the:

- 8 1. Fair market value of the property as of the time the lessor and the
 9 Commonwealth entered into the lease;
- 10 2. Name and qualifications of each of the two (2) real estate appraisers who
 11 determined the fair market value;
- 12 3. Appraisal technique each appraiser employed; and
- 13 4. Information required by subsection (2) of this section.

14 (b) 1. Except as provided in subparagraph 2. of this paragraph, if a lease is
 15 awarded pursuant to KRS 56.805(2), the report shall include the:

- 16 a. Fair market value of the property at the time the lessor and the
 17 Commonwealth entered into the lease;
- 18 b. Name and qualifications of each of the two (2) real estate
 19 appraisers who determined the fair market value;
- 20 c. Appraisal technique each appraiser employed;
- 21 d. Information required by paragraphs (a), (b), (c), (d), (f), (g), and
 22 (h) of subsection (2) of this section; and
- 23 e. Procedure the department followed to obtain the lease.

24 2. If the federal government is the lessor, the report shall include the
 25 substance of the lease-purchase.

26 (4) Any lease awarded pursuant to KRS 56.805(2), including all lease renewals except
 27 automatic renewals permitted under KRS 56.806(1), for which the annual rental

1 cost will exceed one hundred thousand dollars (\$100,000) shall be reported to the
 2 Capital Projects and Bond Oversight Committee after a proposed lease is arrived at
 3 but before execution. The report shall state the information required by paragraphs
 4 (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure
 5 the department followed to obtain the lease. The report shall also include a copy of
 6 the writing required by KRS 56.805(2).

7 (5) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall
 8 be reported to the Capital Projects and Bond Oversight Committee within thirty (30)
 9 days after execution. The report shall include a copy of the certificate or the
 10 certificate and the Governor's authorization, as appropriate, kept on file pursuant to
 11 KRS 56.805(4) and shall further state:

12 (a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection
 13 (2) of this section;

14 (b) The terms of lease before and after the emergency; and

15 (c) The procedure the department followed after the emergency to obtain a lease.

16 (6) Any built-to-suit lease awarded pursuant to KRS 56.8169 shall be reported to the
 17 Capital Projects and Bond Oversight Committee after a proposed lease is arrived at
 18 but before execution. The report shall state the information required by paragraphs
 19 (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section. The report shall
 20 also include:

21 (a) The written finding and Governor's approval required by KRS 56.8161;

22 (b) The selection committee's ranking of firms required by KRS 56.8169(15)(a);

23 (c) The written reason for requesting best-and-final offers, if best-and-final offers
 24 are requested, made pursuant to KRS 56.8169(16)(b);

25 (d) The selection committee's selection of the best best-and-final offer, if best-
 26 and-final offers are requested, made pursuant to KRS 56.8169(16)(d);

27 (e) The certificates signed pursuant to KRS 56.8171(2); and

1 (f) The report prepared by the employee of the Auditor of Public Accounts
2 pursuant to KRS 56.8171(3).

3 (7) If the Finance and Administration Cabinet decides to exercise an option to purchase
4 pursuant to KRS 56.806(4), the cabinet shall report to the Capital Projects and Bond
5 Oversight Committee after the decision is reached but before the purchase occurs.
6 The report shall include the:

- 7 (a) Fair market value of the property;
- 8 (b) Option price;
- 9 (c) Name and qualifications of each of the two (2) real estate appraisers who set
10 the fair market value;
- 11 (d) Appraisal technique each appraiser employed; and
- 12 (e) Rent paid by the Commonwealth prior to the exercise of the option.

13 (8) (a) When, pursuant to KRS 56.806(5)(a), the Finance and Administration Cabinet
14 attempts to complete a lease-purchase through lease payments totally
15 amortizing the fair market value of the leased property as of the time the
16 lessor and the Commonwealth entered into the lease, the cabinet shall report
17 to the Capital Projects and Bond Oversight Committee no more than ninety
18 (90) days before the final lease payment. The report shall include the:

- 19 1. Fair market value of the property at the time the lessor and the
20 Commonwealth entered into the lease;
- 21 2. Name and qualifications of each of the two (2) real estate appraisers who
22 set the fair market value;
- 23 3. Appraisal technique each appraiser employed; and
- 24 4. Rent paid by the Commonwealth toward the purchase.

25 (b) When, pursuant to KRS 56.806(5)(b), the Finance and Administration Cabinet
26 attempts to complete a lease-purchase, the cabinet shall report to the Capital
27 Projects and Bond Oversight Committee no more than ninety (90) days before

1 the final lease payment. The report shall include the terms of the lease
2 purchase.

3 (9) When, pursuant to KRS 56.806(5), the Finance and Administration Cabinet decides
4 to attempt to complete a lease-purchase prior to the total amortization, through lease
5 payments, of the fair market value of the leased property as of the time the lessor
6 and the Commonwealth entered into the lease, the cabinet shall report to the Capital
7 Projects and Bond Oversight Committee after the decision is reached but before the
8 purchase occurs. The report shall state the information required by paragraph (a) or
9 (b) of subsection (8) of this section as appropriate. The report shall also include the
10 sum of money that must be paid in addition to rent paid, in order to complete the
11 purchase.

12 (10) If the Finance and Administration Cabinet, pursuant to KRS 56.806(5), includes in
13 a lease the lease-purchase of the leased property and thereafter becomes aware that a
14 purchase will not be achieved, within thirty (30) days after the cabinet becomes
15 aware, it shall notify the Capital Projects and Bond Oversight Committee of the
16 circumstances preventing the purchase.

17 (11) (a) Except in the case of an emergency as provided in paragraph (b) of this
18 subsection, any modification to an existing lease, made pursuant to KRS
19 56.813, that is less than fifty thousand dollars (\$50,000) shall be reported to
20 the Capital Projects and Bond Oversight Committee within thirty (30) days
21 after execution, and any modification to an existing lease, made pursuant to
22 KRS 56.813, that is fifty thousand dollars (\$50,000) or more shall be reported
23 to the Capital Projects and Bond Oversight Committee before execution. In
24 either case, the report shall consist of:

- 25 1. The terms of the lease before and after modification;
26 2. The reason for the modification;
27 3. The name of the lessor;

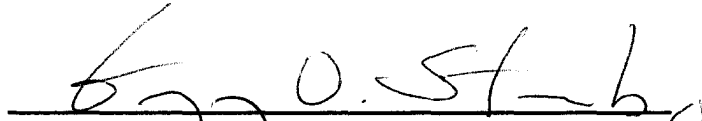
- 1 4. Any comments received from the public pursuant to KRS 56.813(4); and
- 2 5. A statement as to whether the Finance and Administration Cabinet
- 3 complied with the requirements in KRS 56.813. If the cabinet has not
- 4 complied with any requirement, the cabinet shall explain why.

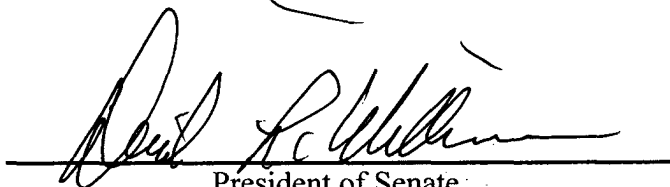
5 (b) Any modification to an existing lease which is required because of an
6 emergency as described at KRS 56.805(3) shall be reported to the Capital
7 Projects and Bond Oversight Committee within thirty (30) days after
8 execution. The report shall include a copy of the certificate or the certificate
9 and the Governor's authorization, as appropriate, kept on file pursuant to KRS
10 56.805(4) and shall further state:

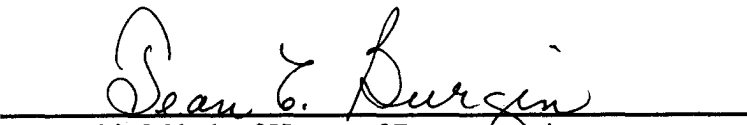
- 11 1. The terms of the lease before and after modification;
- 12 2. The name of the lessor;
- 13 3. Any comments received from the public pursuant to KRS 56.813(4); and
- 14 4. A statement that the Finance and Administration Cabinet complied with
- 15 the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the
- 16 cabinet has not complied with any requirement, the cabinet shall explain
- 17 why.


18 ➔Section 49. The following KRS sections are repealed:

- 19 45.245 Submission of six (6) year road plan and appropriations to General Assembly.
- 20 45.246 Compliance with KRS 45.245 to 45.247.
- 21 48.117 Budget planning report.
- 22 48.190 Capital construction and space rental recommendations.
- 23 176.419 Definition of "project" and "six (6) year road plan" for KRS 45.245, 45.246,
- 24 176.420, 176.430, and 176.440.
- 25 176.420 Continuing study of highway needs by Department of Highways -- Submission
- 26 of six (6) year road plan to General Assembly -- Electronic version.


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date March 24, 2009